

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 70—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

Subpart A—General

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AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 48 FR 30094, June 30, 1983, unless otherwise noted.

Subpart A—General

§ 70.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under the following statutory provisions:

Act of May 29, 1884, commonly known as the Animal Industry Act, section 7, as amended (21 U.S.C. 117),

Act of February 2, 1903, commonly known as the Cattle Contagious Diseases Act of 1903, Section 3, as amended (21 U.S.C. 122),

Act of March 3, 1905, Section 6, as amended (21 U.S.C. 127),

Act of July 2, 1962, Section 6(a), as amended (21 U.S.C. 134e).

The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*).

Sections 901-905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

[48 FR 30094, June 30, 1983, as amended at 66 FR 63615, Dec. 7, 2001; 68 FR 6343, Feb. 7, 2003]

Subpart B—Supplemental Rules of Practice

§ 70.10 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under any of the Acts listed in § 70.1, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator or the Administrator's delegate gives notice of an apparent violation of the Act, or the regulations issued thereunder, by such person and affords such person an opportunity for a hearing regarding the matter as provided by the Act;

(2) Such person expressly waives hearing and agrees to pay a specified penalty within a designated time; and

(3) The Administrator agrees to accept the penalty in settlement of the particular matter involved if the penalty is paid within the designated time.

(b) If the penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may be assessed after issuance of a complaint.

PART 71—GENERAL PROVISIONS

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AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 28 FR 5937, June 13, 1963, unless otherwise noted.

§ 71.1 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section.

Accredited veterinarian. A veterinarian who is approved by the Administrator, in accordance with part 161 of this chapter, to perform official animal health work of the Animal and Plant Health Inspection Service specified in subchapters A, B, C, and D of this chapter; and to perform work required by cooperative state-federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States. The AIN contains 15 digits, with the first 3 being the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the Inter-

national Committee on Animal Recording.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Approved livestock facility. A stockyard, livestock market, buying station, concentration point, or any other premises under State or Federal veterinary supervision where livestock are assembled and that has been approved under § 71.20.

Area Veterinarian in Charge. The veterinary official of APHIS, who is assigned by the Administrator to supervise and perform the official animal health work of the Animal and Plant Health Inspection Service in the state concerned.

Breeder swine. Sexually intact swine over 6 months of age.

Commingleing. The mixing or assembling of swine from one premises with swine from any other premises, including, but not limited to, loading swine from more than one premises on the same truck, trailer, vessel, or railroad car, unless swine from different premises are kept separate on the means of conveyance by dividers.

Department. The United States Department of Agriculture.

Feeder swine. Swine under 6 months of age that are not slaughter swine.

Food Safety and Inspection Service (FSIS). The Food Safety and Inspection Service, United States Department of Agriculture.

Free area. The States, Territories, or the District of Columbia or portions thereof not quarantined by the Secretary of Agriculture for the specific contagious, infectious, or communicable animal disease mentioned in each part.

Group/lot identification number (GIN). The identification number used to uniquely identify a "unit of animals" of the same species that is managed together as one group throughout the preharvest production chain. The GIN consists of a seven-character premises identification number (PIN), as defined in this section, and a six-digit representation of the date on which the group or lot of animals was assembled (MM/DD/YY).

Horses. Horses, asses, mules, ponies, and zebras.

Interstate. From one State into or through any other State.

Interstate commerce. Trade, traffic, transportation, or other commerce between a place in a state and any place outside of that state, or between points within a state but through any place outside of that state.

Interstate swine movement report. A paper or electronic document signed by a producer moving swine giving notice that a group of animals is being moved across State lines in a swine production system. This document must contain the name of the swine production system; the name, location, and premises identification number of the premises from which the swine are to be moved; the name, location, and premises identification number of the premises to which the swine are to be moved; the date of movement; and the number, age, and type of swine to be moved. This document must also contain a description of any individual or group identification associated with the swine, the name of the swine production system accredited veterinarian(s), the health status of the herd from which the swine are to be moved, including any disease of regulatory concern to APHIS or to the States involved, and an accurate statement that swine on the premises from which the swine are to be moved have been inspected by the swine production system accredited veterinarian(s) within 30 days prior to the interstate movement and consistent with the dates specified by the premises' swine production health plan and found free from signs of communicable disease.

Livestock. Horses, cattle, bison, captive cervids, sheep and goats, swine, and other farm-raised animals.

Livestock market. A stockyard, buying station, concentration point, or any other premises where livestock are assembled for sale or sale purposes.

Moved (movement) in interstate commerce. Shipped, transported, delivered, or otherwise aided, induced, or caused to be moved from the point of origin of the interstate movement to the animals' final destination, such as a slaughtering establishment or a farm for breeding or raising, and including any temporary stops along the way,

such as at a stockyard or dealer premises for feed, water, rest, or sale.

Official Brand Inspection Agency. The duly constituted body elected, appointed, or delegated or granted authority by a State or governmental subdivision thereof, to administer laws, regulations, ordinances or rules pertaining to the brand identification of livestock.

Official brand inspection certificate. A certificate issued by an official brand inspection agency in any State in which such certificates are required for movement of livestock.

Official eartag. An identification tag providing unique identification for individual animals. An official eartag must bear the U.S. shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users. The official eartag must be tamper-resistant and have a high retention rate in the animal. Official eartags must adhere to one of the following numbering systems:

(1) National Uniform Eartagging System.

(2) Animal identification number (AIN).

(3) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in this section, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.

(4) Any other numbering system approved by the Administrator for the identification of animals in commerce.

Official identification device or method. A means of officially identifying an animal or group of animals using devices or methods approved by the Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority.

Official swine tattoo. A tattoo, conforming to the six-character alpha-numeric National Tattoo System, that provides a unique identification for each herd or lot of swine.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

Premises identification number (PIN). A unique number assigned by a State or Federal animal health authority to a premises that is, in the judgment of the State or Federal animal health authority, a geographically distinct location from other livestock production units. The premises identification number is associated with an address or legal land description and may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. It may also be used as a component of a group/lot identification number (GIN). The premises identification number may consist of:

- (1) The State's two-letter postal abbreviation followed by the premises' assigned number; or

- (2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

Purebred registry association. A swine breed association formed and perpetuated for the maintenance of records of purebreeding of swine species for a specific breed whose characteristics are set forth in constitutions, by-laws, and other rules of the association.

Quarantined area. The States, Territories, or the District of Columbia or portions thereof quarantined by the Secretary of Agriculture for the specific contagious, infectious, or communicable animal disease mentioned in each part.

Slaughter swine. Swine being sold or moved for slaughter purposes only.

State. Any of the 50 states, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the District of Columbia, and any territories and possessions of the United States.

State animal health official. The state official responsible for livestock and poultry disease control and eradication programs.

State representative. An individual employed in animal health work by a state or a political subdivision thereof

and authorized by such state or political subdivision to perform the function involved.

Swine production health plan. A written agreement developed for a swine production system designed to maintain the health of the swine and detect signs of communicable disease.

The plan must identify all premises that are part of the swine production system and that receive or send swine in interstate commerce and must provide for health monitoring of all swine within the system. Such health monitoring must include inspections by the swine production system accredited veterinarian(s). Inspections of all identified premises that contain swine that are or will be in the process of moving interstate within the swine production system and of all swine on those premises must be conducted by the accredited veterinarian(s) at intervals of no greater than 30 days. Inspections of all identified receiving premises that contain only swine that have completed their interstate movement within a single swine production system and of all swine on those premises must be conducted in accordance with State regulations. The plan must also describe the recordkeeping system of the swine production system. The plan will not be valid unless it is signed by an official of each swine production system identified in the plan, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. In the plan, the swine production system must acknowledge that it has been informed of and has notified the managers of all its premises listed in the plan that any failure of the participants in the swine production system to abide by the provisions of the plan and the applicable provisions of this part and part 85 of this chapter constitutes a basis for the cancellation of the swine production health plan, as well as other administrative or criminal sanctions, as appropriate.

Swine production system. A swine production enterprise that consists of multiple sites of production; i.e., sow herds, nursery herds, and growing or finishing herds, but not including

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slaughter plants or livestock markets, that are connected by ownership or contractual relationships, between which swine move while remaining under the control of a single owner or a group of contractually connected owners.

Swine production system accredited veterinarian. An accredited veterinarian who is named in a swine production health plan for a premises within a swine production system and who performs inspection of such premises and animals and other duties related to the movement of swine in a swine production system.

Tick infested. Infested with the ticks *Boophilus annulatus* (*Margaropus annulatus*), *Boophilus microplus*, or *Rhipicephalus evertsi evertsi*.

United States Department of Agriculture backtag. A backtag issued by APHIS that provides unique identification for each animal.

[28 FR 5937, June 13, 1963, as amended at 29 FR 14489, Oct. 22, 1964; 35 FR 14197, Sept. 9, 1970; 38 FR 18011, July 6, 1973; 50 FR 45987, Nov. 6, 1985; 51 FR 32599, Sept. 12, 1986; 53 FR 40385, Oct. 14, 1988; 55 FR 11155, 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 62 FR 27933, May 22, 1997; 62 FR 54758, Oct. 22, 1997; 66 FR 65602, Dec. 20, 2001; 68 FR 62226, Nov. 3, 2003; 69 FR 10150, Mar. 4, 2004; 69 FR 64648, Nov. 8, 2004]

§71.2 Secretary to issue rule governing quarantine and interstate movement of diseased animals, including poultry.

When the Secretary of Agriculture shall determine the fact that poultry or other animals in any State, Territory, or the District of Columbia are affected with any contagious, infectious, or communicable disease of livestock or poultry for which, in his opinion, a quarantine should be established or that other basis for a quarantine exists, notice will be given of that fact, and a rule will be issued accordingly, placing in quarantine such State, Territory, or the District of Columbia, or specified portion thereof. This rule will either absolutely forbid the interstate movement of the quarantined animals from the quarantined area or will indicate the regulations under which interstate movements may be made.

[34 FR 15641, Oct. 9, 1969]

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§71.3 Interstate movement of diseased animals and poultry generally prohibited.

(a) Animals or poultry affected with any of the following diseases, which are endemic to the United States: Equine piroplasmosis, bovine piroplasmosis or splenetic fever, scabies in cattle, pseudorabies, acute swine erysipelas, tuberculosis, Johne's disease, brucellosis, scrapie, bluetongue, anthrax, chlamydiosis, and Newcastle disease, or any other communicable disease which is endemic to the United States, or which are cattle fever tick infested, shall not be moved interstate.

(b) Animals or poultry affected with any of the following diseases, not known to exist in the United States: foot-and-mouth disease, rinderpest, African swine fever, classical swine fever, Teschen disease, contagious bovine pleuropneumonia, European fowl pest, dourine, contagious equine metritis, vesicular exanthema, screwworms and glanders, scabies in sheep or any other communicable foreign disease not known to exist in the United States, shall not be moved interstate.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section:

(1) Domestic animals that have reacted to an official test for brucellosis, are not affected with any other disease referred to in this section, and are not tick infested may be moved interstate in accordance with part 78 of this chapter.

(2) Domestic animals that are positive to an official Johne's disease test, are not affected with any other disease referred to in this section, and are not tick infested may be moved interstate in accordance with part 80 of this chapter.

(3) Cattle which have reacted to the tuberculin test, which are not affected with any other disease referred to in this section and are not tick infested, may be moved interstate in accordance with the provisions of §77.17 of this subchapter.

(4) Swine infected with or exposed to pseudorabies may be moved interstate in accordance with part 85 of this chapter.

(d) Notwithstanding the provisions of paragraphs (a) and (b) of this section, livestock which is found to be diseased

may be moved interstate in accordance with paragraphs (d)(1) through (6) of this section: *Provided*, That such livestock is not tick infested or affected with any disease referred to in this section other than the diseases named in this paragraph: *And provided further*, That such livestock is accompanied by a certificate, issued by an APHIS or State representative or accredited veterinarian stating the destination of the animals; the purpose for which they are to be moved; the number of animals covered by the certificate; the point from which the animals are moved interstate; and the name and address of the owner or shipper.

(1) Livestock affected with one or more of the following diseases may be moved interstate for immediate slaughter to a slaughtering establishment where State or Federal meat inspection is maintained; Actinomycosis, actinobacillosis, anaplasmosis, atrophic rhinitis, contagious ecthyma, foot rot, infectious keratitis, ram epididymitis, ringworm, swine influenza, arthritis (simple lesions only), and shipping fever.

(2) Cattle with slight unopened cases of actinomycosis or actinobacillosis (or both) may be moved interstate to a feed lot in the State of destination: *Provided*, That such cattle are not affected with any other disease named in this paragraph.

(3) Sheep affected with or exposed to contagious ecthyma may be moved interstate to a feed lot located in a State the laws, rules, or regulations of which require that such sheep be segregated or quarantined under a permit from an official of such State: *Provided*, That such sheep are not affected with any other disease named in this paragraph.

(4) Livestock affected with one or more of the following diseases may be moved interstate for any purpose to a State the laws, rules, or regulations of which require that such livestock be segregated or quarantined under a permit from the appropriate livestock sanitary official of such State: actinomycosis, actinobacillosis, contagious ecthyma, foot rot, and shipping fever: *Provided*, That such livestock is not affected with any other disease named in this paragraph.

(5) Livestock affected with infectious keratitis or ringworm (or both) may be moved interstate for any purpose if treated under the supervision of an APHIS or State representative or an accredited veterinarian prior to movement: *Provided*, That such livestock is not affected with any other disease named in this paragraph. Livestock affected with infectious keratitis or ringworm (or both) and also with another disease named in this paragraph may be moved interstate only under the applicable provisions of paragraphs (d)(1) through (4) of this section after being so treated for infectious keratitis or ringworm (or both). Such livestock will be subject to further treatment at destination, if required.

(6) Fish affected with spring viremia of carp may be moved interstate only if they are being moved directly to a facility to be processed into food for human consumption.

(7) *Other movements*. The Administrator may provide for the movement, not otherwise provided for in this paragraph, of animals affected with the diseases named in paragraph (d)(1) of this section, under such conditions as he may prescribe to prevent the spread of disease. The Administrator will promptly notify the appropriate livestock sanitary officials of the States involved of any such action.

(e) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the Administrator in specific cases and under such conditions as he may prescribe to prevent the dissemination of disease may provide for the interstate movement of individual animals affected with contagious, infectious, or communicable disease to a designated diagnostic or research facility when accompanied by a permit from the appropriate livestock sanitary official in the State of destination: *Provided*, That animals so moved shall be maintained in quarantine at such designated facility until freed of disease as determined by tests recognized by the Department, until natural death, or until disposal by euthanasia.

(f) Before offering cattle or other livestock or poultry for interstate transportation, transporting them interstate, or introducing them into

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any stockyards or upon routes of traffic for interstate transportation, all persons, companies, or corporations are required to exercise reasonable diligence to ascertain whether such animals or poultry are affected with any contagious, infectious, or communicable disease, or have been exposed to the contagion or infection of any such disease by contact with other animals or poultry so diseased or by location in pens, cars, or other vehicles, or upon premises that have contained animals or poultry so diseased.

[28 FR 5937, June 13, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §71.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§71.4 Maintenance of certain facilities and premises in a sanitary condition required; cleaning and disinfection, when required; animals classed as "exposed."

(a) Yards, pens, chutes, alleys, and other facilities and premises which are used in connection with the interstate movement of livestock or poultry shall be maintained by the person in possession of the facilities and premises in a clean and sanitary condition, in accordance with good animal husbandry practices, and shall be subject to inspection by an APHIS or State representative. When an APHIS or State representative determines that such facilities or premises are not in such clean and sanitary condition and gives written notice of his determination to such person, the facilities and premises shall be cleaned and disinfected in accordance with §§71.7 and 71.10 through 71.12 by such person under the supervision of an APHIS or State representative or an accredited veterinarian before such premises are again used for livestock or poultry.

(b) Yards, pens, chutes, alleys, and other facilities and premises which have contained interstate shipments of cattle, sheep, swine, poultry, or other animals affected with, or carrying the infection of, any contagious, infectious, or communicable disease of livestock or poultry other than slight unopened cases of actinomycosis or actinobacillosis (or both), bovine foot rot,

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atrophic rhinitis, ram epididymitis, ringworm, infectious keratitis, and arthritis (simple lesions only), shall be cleaned and disinfected under the supervision of an APHIS or State representative or an accredited veterinarian in accordance with §§71.7 and 71.10 through 71.12 before such premises are again used for animals, and any poultry or other animals unloaded into such yards or premises before they have been so cleaned and disinfected shall thereafter be classed as "exposed" within the meaning of the regulations in this subchapter and shall not be moved interstate except in compliance with the provisions of such regulations applicable to "exposed" animals.

[34 FR 15641, Oct. 9, 1969, as amended at 55 FR 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 62 FR 27933, May 22, 1997]

§71.5 Unsanitary railroad cars, trucks, boats, aircraft or other means of conveyance; interstate movement restricted.

No person who receives notice from an APHIS representative that a railroad car, truck, boat, aircraft or other means of conveyance owned or operated by such person is not in a clean and sanitary condition in accordance with good animal husbandry practices, shall thereafter use such means of conveyance in connection with the interstate movement of livestock or poultry, or move said means of conveyance interstate, until it has been cleaned and disinfected under the supervision of an APHIS or State representative or an accredited veterinarian in accordance with §§71.7 and 71.10 through 71.12.

[34 FR 15641, Oct. 9, 1969, as amended at 55 FR 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 62 FR 27933, May 22, 1997]

§71.6 Carrier responsible for cleaning and disinfecting of railroad cars, trucks, boats, aircraft or other means of conveyance.

(a) Railroad cars, trucks, boats, aircraft, and other means of conveyance which have been used in the interstate transportation of cattle, sheep, swine, poultry, or other animals affected with, or carrying the infection of, any contagious, infectious, or communicable disease of livestock or poultry,

other than slight unopened cases of actinomycosis or actinobacillosis (or both), atrophic rhinitis, bovine foot rot, brucellosis, ram epididymitis, ringworm, infectious keratitis, and arthritis (simple lesions only), shall be cleaned and disinfected under APHIS supervision in accordance with §§ 71.7 and 71.10 through 71.12 at the point where the animals are unloaded and the final carrier shall be responsible for such cleaning and disinfecting: *Provided*, That when APHIS supervision is not available at such point, the means of conveyance may be cleaned and disinfected under the supervision of a State representative or an accredited veterinarian.

(b) No railroad car, truck, boat, aircraft or other means of conveyance from which poultry or other animals affected with an infectious, contagious or communicable disease of livestock or poultry, other than those specified in § 71.4(b), have been unloaded shall thereafter be used in connection with the interstate movement of animals, including poultry, or be moved interstate until it has been cleaned and disinfected by the final carrier under the supervision of an APHIS or State representative or an accredited veterinarian in accordance with §§ 71.7 and 71.10 through 71.12.

(c) If APHIS supervision or other supervision as required by paragraph (a) or (b) of this section or proper cleaning and disinfecting facilities are not available at the point where the animals are unloaded, upon permission first received from the Animal and Plant Health Inspection Service, the means of conveyance may be forwarded empty to a point at which such supervision and facilities are available, and there be cleaned and disinfected under supervision in accordance with §§ 71.7 and 71.10 through 71.12.

[34 FR 15641, Oct. 9, 1969, as amended at 37 FR 25337, Nov. 30, 1972; 39 FR 4465, Feb. 4, 1974; 55 FR 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 62 FR 27934, May 22, 1997]

§ 71.7 Means of conveyance, facilities, premises, and cages and other equipment; methods of cleaning and disinfecting.

(a) Railroad cars, trucks, aircraft, or other means of conveyance, except

boats, required by the regulations in this subchapter to be cleaned and disinfected shall be treated in the following manner: Remove all litter and manure from all portions of the conveyance, including any external ledges and framework; clean the exterior and interior of the conveyance; and saturate the entire interior surface, including the inner surface of the doors of the conveyance, with a permitted disinfectant specified in §§ 71.10 through 71.12.

(b) Boats required by the regulations in this subchapter to be cleaned and disinfected shall be treated in the following manner: Remove all litter and manure from the decks and stalls, and all other parts of the boat occupied or traversed by any poultry or other animals and from the portable chutes or other appliances or fixtures used in loading and unloading the animals, and saturate with a permitted disinfectant the entire surface of the deck, stalls, or other parts of the boat occupied or traversed by any animals or with which they may come in contact or which have contained litter or manure.

(c) Yards, pens, chutes, alleys, cages, and other equipment required by the regulations in this subchapter to be disinfected shall be treated in the following manner: Empty all troughs, racks, or other feeding or watering appliances; remove all litter and manure from the floors, posts, or other parts; and saturate the entire surface of the fencing, troughs, chutes, floors, walls, and other parts with a permitted disinfectant specified in §§ 71.10 through 71.12.

[34 FR 15642, Oct. 9, 1969, as amended at 61 FR 56883, Nov. 5, 1996]

§ 71.10 Permitted disinfectants.

(a) Disinfectants permitted for use on cars, boats, and other vehicles, premises, and cages and other equipment are as follows:

(1) "Cresylic disinfectant" in the proportion of at least 4 fluid ounces to 1 gallon of water.

(2) Liquefied phenol (U.S.P. strength 87 percent phenol) in the proportion of at least 6 fluid ounces to 1 gallon of water.

(3) Chlorinated lime (U.S.P. strength, 30 percent available chlorine) in the

proportion of 1 pound to 3 gallons of water.

(4) Sodium hydroxide (Lye) prepared in a fresh solution in the proportion of not less than 1 pound avoirdupois of sodium hydroxide of not less than 95 percent purity to 6 gallons of water, or one 13½ ounce can to 5 gallons of water. Due to the extreme caustic nature of sodium hydroxide solution, precautionary measures such as the wearing of rubber gloves, boots, raincoat, and goggles should be observed. An acid solution such as vinegar shall be kept readily available in case any of the sodium hydroxide solution should come in contact with the body.

(5) Disinfectants which are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 *et seq.*), with tuberculocidal claims, as disinfectants for general use, may be used for the purpose of this part in accordance with directions on the labels accepted in connection with their registration. However, disinfectants which fall in this category are not permitted for use in outbreaks of foreign animal diseases unless in specific cases such use is approved in advance by the Administrator.

(b) The use of “cresylic disinfectant” is permitted subject to the following conditions:

(1) The manufacturer thereof shall have obtained specific permission from APHIS for the use of his products in official disinfection. To obtain such permission manufacturers shall first submit a sample of at least 8 ounces for examination, together with a statement of the formula employed and a guaranty that the product will be maintained of a quality uniform with the sample submitted.

(2) To prevent confusion, the product of each manufacturer and distributor shall bear a distinctive trade name or brand, together with the name of the manufacturer or distributor.

(3) The product shall at all times conform to specifications for composition and performance issued by the Administrator.

[28 FR 5937, June 13, 1963, as amended at 32 FR 19157, Dec. 20, 1967; 37 FR 8864, May 2, 1972; 37 FR 9460, May 11, 1972; 55 FR 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 61 FR 56883, Nov. 5, 1996]

§71.11 Cresylic disinfectant as permitted disinfectant; specifications.

The following specifications will be employed for determining the suitability of cresylic disinfectant for use under the provisions of §71.10(b)(3):

(a) The product shall remain a uniform liquid when held at 0 °C. (32 °F.) for 3 hours (chill test).

(b) The product shall dissolve completely in 30 parts of distilled water at 25 °C. (77 °F.) within 2 minutes (solution-rate test), producing a solution entirely free from globules and not more than faintly opalescent (solubility-degree test).

(c) The product shall contain not more than 25 percent of inert ingredients (water and glycerin), not more excess alkali than the equivalent of 0.5 percent of sodium hydroxide, and not less than 21 percent of soap exclusive of water, glycerin, and excess alkali.

(d) The product shall contain not less than 50 percent and not more than 53 percent of total phenols. It shall contain less than 5 percent of benzophenol (C⁶H⁵OH).

(e) The methods of determining compliance with the specifications in paragraphs (a) to (d) of this section will be those described in United States Department of Agriculture Bulletin 1308, Chemical and Physical Methods for the Control of Saponified Cresol Solutions, so far as they are applicable.

(f) Any suitable glyceride, fat acid, or resin acid may be used in preparing the soap, but not all are suitable nor are all grades of a single product equally suitable. Also various grades of commercial cresylic acid differ in suitability. Therefore, manufacturers are cautioned to prepare a trial laboratory batch from every set of ingredients and to prove its conformity with paragraphs (a) and (b) of this section, before proceeding with manufacture on a factory scale.

§71.12 Sodium orthophenylphenate as permitted disinfectant for premises infected with tuberculosis.

(a) A permitted brand of sodium orthophenylphenate in a proportion of at least one pound to 12 gallons of water is permitted in tuberculosis eradication work for disinfecting infected premises following the removal

of cattle that reacted to the tuberculin test.

(b) It is absolutely necessary that the solution be applied at a temperature of 60 °F. or over. Whenever the temperature of the building to be disinfected is below 60 °F., as indicated by a wall thermometer, the solution shall be heated to 120 °F. and higher in very cold weather, to insure effective disinfection.

§ 71.13 Inspection of shipments in transit by APHIS representative.

All persons and corporations having control of the interstate transportation of livestock or poultry shall, when directed by an APHIS inspector so to do, stop the same in transit for inspection, and if any of such poultry or other animals are found upon such inspection to be infected with any contagious, infectious, or communicable disease or to have been exposed to such infection, the person or corporation having control of the transportation of such poultry or other animals shall, upon receipt of an order from an APHIS representative so to do, cease the carriage, transportation, or moving of such poultry or other animals unless such carriage, transportation, or moving can be accomplished in accordance with the regulations in this subchapter governing the interstate movement of poultry or other animals infected with or which have been exposed to the infection of such disease, and in all cases after the discovery of such infection or exposure thereto such poultry or other animals shall be handled in accordance with such regulations.

[28 FR 5937, June 13, 1963, as amended at 34 FR 15642, Oct. 9, 1969; 55 FR 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 62 FR 27934, May 22, 1997]

§ 71.14 Slaughter of poultry or other animals to prevent spread of disease; ascertainment of value and compensation.

When, in order to prevent the spread of any contagious, infectious, or communicable disease, it becomes necessary to slaughter any diseased or exposed animals, including poultry, and the purchase of such animals, including poultry, by the United States is authorized by law and an appropriation is

available therefor, the value of the animals, including poultry shall be ascertained and compensation made therefor in accordance with the orders or regulations of the Secretary of Agriculture.

[28 FR 5937, June 13, 1963, as amended at 34 FR 15642, Oct. 9, 1969]

§ 71.15 Movement from quarantined to free area and shipment therefrom; conditions under which permitted.

No livestock or poultry shall be shipped, trailed, driven, or hauled in private conveyance from the quarantined area in any State, Territory, or the District of Columbia to the free area in the same State, Territory, or the District of Columbia and subsequently delivered to a transportation company for shipment or moved to any other State, Territory, or the District of Columbia without complying with all Federal and State regulations pertaining to such movements.

[28 FR 5937, June 13, 1963, as amended at 34 FR 15642, Oct. 9, 1969]

§ 71.16 Inspection and certification of poultry or other animals for interstate movement.

(a) *Assistance and facilities.* When poultry or other animals are to be inspected and certified by an APHIS representative, assistance and proper facilities for restraining them shall be provided in order that a careful inspection may be made, and the representative while making the inspection shall not be interfered with in any manner; otherwise inspection will be immediately discontinued.

(b) *Certificates and other statements to accompany shipments.* Whenever inspection or treatment and the issuance of a certificate, statement, test chart, or other writing showing the performance of such inspection or treatment and the result thereof is required by any of the regulations in this subchapter as a condition precedent to the movement interstate of any poultry or other animal or class of poultry or other animals, or any poultry or other animal or class of poultry or other animals is so required to be accompanied in interstate movement by such certificate, statement, test chart, or other writing, no such poultry or other animal or

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poultry or other animals shall be moved interstate unless and until the following requirements are also complied with:

(1) In the case of such movement by a common carrier issuing waybills or other form or forms of billing covering the movement, the said certificate, statement, test chart, or other writing shall be delivered to such carrier at the time the poultry or other animal or poultry or other animals are delivered for shipment, and shall become the property of the carrier, and be by such carrier attached to the billing covering the transportation of such poultry or other animal or poultry or other animals, and accompany such billing to destination, and be filed with such billing for future reference.

(2) In case of such movement otherwise than by common carrier issuing waybills or other form or forms of billing, the said certificate, statement, test chart, or other writing shall accompany the poultry or other animal or poultry or other animals to destination and be delivered to the consignees, or, in case the consignor and consignee is the same person, to the first purchaser purchasing during or after such movement in interstate commerce, or to the person to whom the poultry or other animal or poultry or other animals are delivered.

[28 FR 5937, June 13, 1963, as amended at 34 FR 15642, Oct. 9, 1969; 55 FR 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 62 FR 27934, May 22, 1997]

§71.17 Interstate movement of dead poultry or other animals prohibited in same car with live poultry or other animals.

No dead poultry or other animals shall be offered or accepted for transportation or transported in the same car with live poultry or other animals from the original point of shipment in any State or Territory or the District of Columbia to or through any other State, Territory, or the District of Columbia.

[28 FR 5937, June 13, 1963, as amended at 34 FR 15642, Oct. 9, 1969]

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§71.18 Individual identification of certain cattle 2 years of age or over for movement in interstate commerce.

(a) No cattle 2 years of age or over, except steers and spayed heifers and cattle of any age which are being moved interstate during the course of normal ranching operations without change of ownership to another premises owned, leased, or rented by the same individual as provided in §§ 78.9(a)(3)(ii), 78.9(b)(3)(iv), and 78.9(c)(3)(iv) of this chapter, shall be moved in interstate commerce other than in accordance with the requirements of this section. Any movement in interstate commerce of any cattle shall also comply with the other applicable provisions in this part and other parts of this subchapter.

(1) When permitted under such other provisions, cattle subject to this section:

(i) May be moved in interstate commerce from any point to any destination, if such cattle, when moved in interstate commerce, are identified by a Department-approved backtag¹ affixed a few inches from the midline and just behind the shoulder of the animal, or by such other means approved by the Administrator, upon request in specific cases, and if except as provided in paragraph (a)(5) of this section such cattle when moved interstate are accompanied by a statement signed by the owner or shipper of the cattle, or other document² stating: (A) The point from which the animals are moved interstate; (B) the destination of the animals; (C) the number of animals covered by the statement, or other document; (D) the name and address of the owner at the time of the movement; (E)

¹Department-approved backtags are available at recognized slaughtering establishments and specifically approved stockyards and from State representatives and APHIS representatives. A list of recognized slaughtering establishments and specifically approved stockyards may be obtained as indicated in §78.1 of this chapter. The terms “State representative” and “APHIS representative” are defined in §78.1 of this chapter.

²Other document means a shipping permit, an official health certificate, an official brand inspection certificate, a bill of lading, a waybill, or an invoice on which is listed the required information.

the name and address of the previous owner if ownership changed within four months prior to the movement of the cattle; (F) the name and address of the shipper; and (G) the identifying numbers of the backtags or other approved identification applied: *Provided*, That identification numbers are not required to be recorded on such statement or document for cattle moved from a stockyard posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*),³ directly to a recognized slaughtering establishment as defined in § 78.1 of this chapter; or

(ii) May be moved in interstate commerce only from a farm, ranch, or feedlot to a recognized slaughtering establishment as defined in § 78.1 of this chapter; or to a stockyard posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), for sale and shipment to such a slaughtering establishment, if such cattle are identified upon arrival at such slaughtering establishment or stockyard by the application of Department-approved backtags or by other approved identification as prescribed in paragraph (a)(1)(i) of this section and, except as provided in paragraph (a)(5) of this section when moved interstate, are accompanied by a statement signed by the owner or shipper of the cattle, or other document² stating: (A) The point from which the animals are moved interstate; (B) the destination of the animals; (C) the number of animals covered by the statement or other document; and (D) the name and address of the owner at the time of movement; (E) the name and address of the previous owner if ownership changed within four months prior to the movement of the cattle; and (F) the name and address of the shipper: *Provided*, That the application of backtags is not required if such cattle are moved in interstate commerce to a recognized slaughtering establishment as defined in § 78.1 of this chapter and if, when

moved in interstate commerce, such cattle are identified by a brand registered with an official brand inspection agency and are accompanied by an official brand inspection certificate: *And provided, further*, That the application of backtags is not required when such cattle are moved in interstate commerce to a recognized slaughtering establishment as defined in § 78.1 of this chapter, which maintains records of ownership of cattle by slaughter lot number;⁴ or

(iii) May be moved in interstate commerce for any purpose other than slaughter if such cattle, when moved in interstate commerce, are identified by Animal and Plant Health Inspection Service-approved eartags in lieu of backtags, and, except as provided in paragraph (a)(5) of this section, are accompanied when moved interstate by an owner's statement or other document² stating: (A) The point from which the animals are moved interstate, (B) the destination of the animals, (C) the number of animals covered by the statement or other document, (D) the identifying numbers of the eartags, and (E) the name and address of the owner at the time of movement; (F) the name and address of the previous owner if ownership changed within four months prior to the movement of the cattle; and (G) the name and address of the shipper: *Provided*, That identification by eartag is not required if such animals are registered purebred animals which are moved in interstate commerce for any purpose other than slaughter and are identified in a manner acceptable to the appropriate breed association for registration purposes; or are identified by a brand registered with an official brand inspection agency and are accompanied by an official brand inspection certificate as prescribed in paragraph (a)(1)(ii) of this section.

³Posted stockyards are designated by posting notice at such stockyards and by publication in the FEDERAL REGISTER. Information concerning posted stockyards may also be obtained from the Washington office or the area offices of the Packers and Stockyards Administration.

⁴It is the responsibility of the person who causes the interstate movement to determine whether the establishment maintains such records. As evidence that the establishment does maintain such records such person should obtain a statement to that effect from the management of the establishment and retain it for a period of five years from the date of shipment.

(2) The owner's or shipper's statement or other document² or registered purebred identification required by this section for cattle moved under paragraph (a)(1)(i) or (ii) of this section shall be delivered to the management of the stockyard or slaughtering establishment at the time of delivery of the cattle;⁵ and documents accompanying animals moved under paragraph (a)(1)(iii) of this section for breeding or dairy purposes shall be delivered to the consignee. All such documents shall be made available for inspection on request by a State or Federal representative or an accredited veterinarian, as defined in §78.1, at any time within the year from the date of such delivery.

(3) Each person who ships, transports, or otherwise causes the cattle to be moved in interstate commerce is responsible for the identification of the cattle as required by this section.

(4) No person shall remove or tamper with or cause the removal of or tampering with a backtag, eartag, brand, or other identification device required to be on cattle pursuant to this section while such cattle are being moved in interstate commerce, except at the time of slaughter, or as may be authorized by the Administrator, upon request in specific cases and under such conditions as the Administrator, may impose to ensure continuing identification.

(5) Cattle that would otherwise be required to be accompanied by an owner-shipper statement or other document² as a condition of movement in interstate commerce under paragraph (a)(1) of this section, shall not be required to be accompanied by such an owner-shipper statement or other document⁶ if the following conditions are met: if the cattle are moved to a recognized slaughtering establishment as defined in §78.1 of this chapter or to a stock-

yard specifically approved under §71.20; if the cattle are moved from a farm or other premises where the cattle to be moved interstate have been kept for not less than four months prior to the date of movement; and if such farm or other premises has not had on the premises any cattle or bison from any other premises within four months prior to the date of movement.

(b) In lieu of the backtags, eartags, and brands referred to in this section, any other official identification device or method that is approved by the Administrator may also be used.

[38 FR 22768, Aug. 24, 1973, as amended at 47 FR 55656, Dec. 13, 1982; 50 FR 45987, Nov. 6, 1985; 51 FR 32599, Sept. 12, 1986; 52 FR 2987, Jan. 30, 1987; 55 FR 11156, Mar. 27, 1990; 62 FR 27934, May 22, 1997; 68 FR 62226, Nov. 3, 2003; 69 FR 64649, Nov. 8, 2004]

§71.19 Identification of swine in interstate commerce.

(a)(1) Except as provided in paragraphs (c) and (g) of this section, no swine may be sold, transported, received for transportation, or offered for sale or transportation, in interstate commerce, unless each swine is identified at whichever of the following comes first:

(i) The point of first commingling of the swine in interstate commerce with swine from any other source;

(ii) Upon unloading of the swine in interstate commerce at any livestock market;

(iii) Upon transfer of ownership of the swine in interstate commerce; or

(iv) Upon arrival of the swine in interstate commerce at their final destination.

(2) The identification shall be by means of identification approved by the Administrator and listed in paragraph (b) of this section. All swine shall remain so identified while they are in interstate commerce.

(3) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles swine in interstate commerce, is responsible for the identification of the swine as provided by this section.

(b) Means of swine identification approved by the Administrator are:

⁵The backtag or other identification numbers should be included on the receiving document of the stockyard or establishment for all such cattle identified by backtags or other identification after arrival at such stockyard or establishment.

⁶Other document means a shipping permit, an official health certificate, an official brand inspection certificate, a bill of lading, a waybill, or an invoice on which is listed the required information.

(1) Official eartags, when used on any swine;

(2) United States Department of Agriculture backtags, when used on swine moving to slaughter;

(3) Official swine tattoos, when used on swine moving to slaughter, when the use of the official swine tattoo has been requested by a user or the State animal health official, and the Administrator authorizes its use in writing based on a determination that the tattoo will be retained and visible on the carcass of the swine after slaughter, so as to provide identification of the swine;

(4) Tattoos of at least 4-characters when used on swine moving to slaughter, except sows and boars as provided in § 78.33 of this chapter;

(5) Ear notching when used on any swine, if the ear notching has been recorded in the book of record of a purebred registry association;

(6) Tattoos on the ear or inner flank of any swine, if the tattoos have been recorded in the book of record of a swine registry association;

(7) For slaughter swine and feeder swine, an eartag or tattoo bearing the premises identification number assigned by the State animal health official to the premises on which the swine originated; and

(8) Any other official identification device or method that is approved by the Administrator.

(c) Swine that are kept as a group are not required to be individually identified when in interstate commerce if:

(1) They were born on the same premises;

(2) They were raised on the same premises where they were born;

(3) They are moved in a group directly to a slaughtering establishment from the place where they were raised;

(4) They are not mixed with swine from any other premises, between the time they are born and the time they arrive at the slaughtering establishment; and

(5) They are slaughtered one after another, as a group, and not mixed with other swine at slaughter; or approved identification is applied to the swine after entry into the slaughtering establishment.

(d) Serial numbers of United States Department of Agriculture backtags and official swine tattoos will be assigned to each person who applies to the State animal health official or the Area Veterinarian in Charge for the State in which that person maintains his/her or its place of business. Serial numbers of official eartags will be assigned to each accredited veterinarian or State or Federal representative who requests official eartags from the State animal health official or the Area Veterinarian in Charge, whoever is responsible for issuing official eartags in that State. Persons assigned serial numbers of United States Department of Agriculture backtags, official swine tattoos, and official eartags must:

(1) Record the following information on a document:

(i) All serial numbers applied to the swine;

(ii) Any other serial numbers and approved identification appearing on the swine that are needed to identify the swine to its previous owner and location;

(iii) The street address, including the city and state, or the township, county, and state, of the premises where the approved means of identification were applied; and

(iv) The telephone number, if available, of the person who owns or possesses the swine.

(2) Maintain these records at the person's place of business for 2 years; and

(3) Make these records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) upon request by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

(e)(1) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles swine in interstate commerce, must keep records relating to the transfer of ownership, shipment, or handling of the swine, such as yarding receipts, sale tickets, invoices, and waybills upon which is recorded:

(i) All serial numbers and other approved means of identification appearing on the swine that are necessary to identify it to the person from whom it was purchased or otherwise obtained; and

(ii) The street address, including city and state, or the township, county, and state, and the telephone number, if available, of the person from whom the swine were purchased or otherwise obtained.

(2) Each person required to keep records under this paragraph must maintain the records at his/her or its place of business for at least 2 years after the person has sold or otherwise disposed of the swine to another person, and for such further period as the Administrator may require by written notice to the person, for purposes of any investigation or action involving the swine identified in the records. The person shall make the records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

(f) No person may remove or tamper with any approved means of identification required to be on swine pursuant to this section while it is in interstate commerce, except at the time of slaughter as provided in 9 CFR 309.16(e).

(g) *Swine moving interstate within a swine production system.* Swine moving within a swine production system to other than slaughter or a livestock market are not required to be individually identified when moved in interstate commerce under the following conditions:

(1) The swine may be moved interstate only to another premises identified in a valid swine production health plan for that swine production system.

(2) The swine production system must operate under a valid swine production health plan, in which both the sending and receiving States have agreed to allow the movement.

(3) The swine must have been found free from signs of any communicable disease during the most recent inspection

of the premises by the swine production system accredited veterinarian(s) within 30 days prior to movement.

(4) Prior to the movement of any swine, the producer(s) moving swine must deliver the required interstate swine movement report to the following individuals identified in the swine production health plan:

(i) The swine production system accredited veterinarian for the premises from which the swine are to be moved, and

(ii) The State animal health officials for the sending and receiving States, and any other State employees designated by the State animal health officials.

(5) The receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent the swine or groups of swine. This may be achieved by use of permanent premises or individual identification marks on animals, by keeping groups of animals received from one premises physically separate from animals received from other premises, or by any other effective means.

(6) Each premises must maintain, for 3 years after their date of creation, records that will allow an APHIS representative or State animal health official to trace any animal on the premises back to its previous premises, and must maintain copies of each swine production health plan signed by the producer, all interstate swine movement reports issued by the producer, and all reports the swine production system accredited veterinarian(s) issue documenting the health status of the swine on the premises.

(7) Each premises must allow APHIS representatives and State animal health officials access to the premises upon request to inspect animals and review records.

(8) Once a month, each swine production system must send APHIS a written summary based on the interstate swine movement report data that shows how many animals were moved in the past month, the premises from which they were moved, and the premises to which they were moved.

(h) *Cancellation of and withdrawal from a swine production health plan.* The following procedures apply to cancellation of, or withdrawal from, a swine production health plan:

(1) A State animal health official may cancel his or her State's participation in a swine production health plan by giving written notice to all swine producers, APHIS representatives, accredited veterinarians, and other State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the State animal health official in the notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice. Upon withdrawal of a State, the swine production health plan may continue to operate among the other States and parties signatory to the plan.

(2) A swine production system may withdraw one or more of its premises from participation in the plan upon giving written notice to the Administrator, the accredited veterinarian(s), all swine producers listed in the plan, and State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the swine production system in the written notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice.

(3) The Administrator may cancel a swine production health plan by giving written notice to all swine producers, accredited veterinarians, and State animal health officials listed in the plan. The Administrator shall cancel a swine production health plan after determining that swine movements within the swine production system have occurred that were not in compliance with the swine production health plan or with other requirements of this chapter. Before a swine health production plan is canceled, an APHIS representative will inform a representative of the swine production system of the reasons for the proposed cancellation. The swine production system may appeal the proposed cancellation in writing to the Administrator within 10 days after being informed of the reasons for the proposed cancellation. The appeal must include all of the facts and reasons upon which the swine produc-

tion system relies to show that the reasons for the proposed cancellation are incorrect or do not support the cancellation. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, cancellation of the disputed swine production health plan shall become effective pending final determination in the proceeding if the Administrator determines that such action is necessary to protect the public's health, interest, or safety. Such cancellation shall become effective upon oral or written notification, whichever is earlier, to the swine production system representative. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This cancellation shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

[53 FR 40385, Oct. 14, 1988, as amended at 55 FR 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 59 FR 67612, Dec. 30, 1994; 62 FR 27934, May 22, 1997; 62 FR 54758, Oct. 22, 1997; 66 FR 65603, Dec. 20, 2001; 69 FR 64649, Nov. 8, 2004]

§ 71.20 Approval of livestock facilities.

(a) To qualify for approval by the Administrator as an approved livestock facility⁷ and to retain such designation, the individual legally responsible for the day-to-day operations of the livestock facility shall execute the following agreement:

AGREEMENT—APPROVED LIVESTOCK FACILITY FOR HANDLING LIVESTOCK PURSUANT TO TITLE 9 OF THE CODE OF FEDERAL REGULATIONS

[Name of facility]

[Address and telephone number of facility]

I, [name of the individual legally responsible for the day-to-day operations of the livestock facility], operator of [name of facility], hereby agree to maintain and operate the livestock

⁷ A list of approved livestock facilities may be obtained by writing to National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231.

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facility located at [address of premises] in accordance with the applicable provisions of this agreement and Chapter I, Title 9, of the Code of Federal Regulations (9 CFR).

Cooperation

(1) The State animal health official and the area veterinarian in charge shall be provided with a schedule of the facility's sale days, which shall indicate the types of animals that will be handled at the facility on each sale day, and shall be apprised of any changes to that schedule prior to the implementation of the changes.

(2) An accredited veterinarian, State representative, or APHIS representative shall be on the facility premises on all sale days to perform duties in accordance with State and Federal regulations.

(3) State representatives and APHIS representatives shall be granted access to the facility during normal business hours to evaluate whether the facility and its operations are in compliance with the applicable provisions of this agreement and 9 CFR parts 71, 75, 78, and 85.

(4) An APHIS representative, State representative, or accredited veterinarian shall be immediately notified of the presence at the facility of any livestock that are known to be infected, exposed, or suspect, or that show signs of possibly being infected, with any infectious, contagious, or communicable disease.

(5) Any reactor, suspect, or exposed livestock shall be held in quarantined pens apart from all other livestock at the facility.

(6) No reactor, suspect, or exposed livestock, nor any livestock that show signs of being infected with any infectious, contagious, or communicable disease, may be sold at the facility, except as authorized by an APHIS representative, State representative, or accredited veterinarian.

Records

(7) Documents such as weight tickets, sales slips, and records of origin, identification, and destination that relate to livestock that are in, or that have been in, the facility shall be maintained by the facility for a period of 2 years. APHIS representatives and State representatives shall be permitted to review and copy those documents during normal business hours.

Identification

(8) All livestock must be officially identified in accordance with the applicable regulations in 9 CFR parts 71, 75, 78, and 85 at the time of, or prior to, entry into the facility.

Cleaning and Disinfection

(9) The facility, including all yards, docks, pens, alleys, sale rings, chutes, scales, means of conveyance, and their associated equip-

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ment, shall be maintained in a clean and sanitary condition. The operator of the facility shall be responsible for the cleaning and disinfection of the facility in accordance with 9 CFR part 71 and for maintaining an adequate supply of disinfectant and serviceable equipment for cleaning and disinfection.

General Facilities and Equipment Standards

(10) All facilities and equipment shall be maintained in a state of good repair. The facility shall contain well-constructed and well-lighted livestock handling chutes, pens, alleys, and sales rings for the inspection, identification, vaccination, testing, and branding of livestock.

(11) Quarantined pens shall be clearly labeled with paint or placarded with the word "Quarantined" or the name of the disease of concern, and shall be cleaned and disinfected in accordance with 9 CFR part 71 before being used to pen livestock that are not reactor, suspect, or exposed animals.

(12) Quarantined pens shall have adequate drainage, and the floors and those parts of the walls of the quarantined pens with which reactor, or suspect, or exposed livestock, their excrement, or discharges may have contact shall be constructed of materials that are substantially impervious to moisture and able to withstand continued cleaning and disinfection.

(13) Electrical outlets shall be provided at the chute area for branding purposes.

Standards for Handling Different Classes of Livestock

(By his or her initials, the operator of the facility shall signify the class or classes of livestock that the facility will handle.)

(14) Cattle and bison:

—This facility will handle cattle and bison: [Initials of operator, date]

—This facility will handle cattle and bison known to be brucellosis reactors, suspects, or exposed: [Initials of operator, date]

—This facility will not handle cattle and bison known to be brucellosis reactors, suspects, or exposed and such cattle and bison will not be permitted to enter the facility: [Initials of operator, date]

(i) Cattle and bison shall be received, handled, and released by the facility only in accordance with 9 CFR parts 71 and 78.

(ii) All brucellosis reactor, brucellosis suspect, and brucellosis exposed cattle or bison arriving at the facility shall be placed in quarantined pens and consigned from the facility only in accordance with 9 CFR part 78.

(iii) Any cattle or bison classified as brucellosis reactors at the facility shall be identified in accordance with 9 CFR part 78, placed in quarantined pens, and consigned

from the facility only to a recognized slaughtering establishment or an approved intermediate handling facility in accordance with 9 CFR part 78.

(iv) Any cattle or bison classified as brucellosis exposed at the facility shall be identified in accordance with 9 CFR part 78, placed in quarantined pens, and consigned from the facility only to a recognized slaughtering establishment, approved intermediate handling facility, quarantined feedlot, or farm of origin in accordance with 9 CFR part 78.

(v) The identity of cattle from Class Free States or areas and Class A States or areas shall be maintained.

(vi) The identity of cattle from Class B States or areas shall be maintained, and test-eligible cattle from Class B States or areas shall not be placed in pens with cattle from any other area until they have fulfilled the requirements of 9 CFR part 78 for release from the facility.

(vii) The identity of cattle from Class C States or areas shall be maintained, and test-eligible cattle from Class C States or areas shall not be placed in pens with cattle from any other area until they have fulfilled the requirements of 9 CFR part 78 for release from the facility.

(viii) The identity of cattle from quarantined areas shall be maintained, and test-eligible cattle from quarantined areas shall not be placed in pens with cattle from any other area until they have fulfilled the requirements of 9 CFR part 78 for release from the facility.

(ix) Test-eligible cattle that are penned with test-eligible cattle from a lower class State or area, in violation of this agreement, shall have the status of the State or area of lower class for any subsequent movement.

(x) Laboratory space shall be furnished and maintained for conducting diagnostic tests. All test reagents, testing equipment, and documents relating to the State-Federal cooperative eradication programs on the facility's premises shall be secured to prevent misuse and theft. Adequate heat, cooling, electricity, water piped to a properly drained sink, and sanitation shall be provided for properly conducting diagnostic tests.

(15) Swine:

- This facility will handle breeding swine: [Initials of operator, date]
- This facility will handle slaughter swine: [Initials of operator, date]
- This facility will handle feeder swine: [Initials of operator, date]
- This facility will handle pseudorabies reactor, suspect, or exposed swine: [Initials of operator, date].
- This facility will not handle swine known to be pseudorabies reactor, suspect, or exposed swine and such swine will not be permitted to enter the facility: [Initials of operator, date].

(i) Swine shall be received, handled, and released by the livestock facility only in accordance with 9 CFR parts 71, 78, and 85.

(ii) Pens, alleys, and sales rings for holding, inspecting, and otherwise handling swine shall be imperviously surfaced.

(iii) Slaughter swine may be handled only on days when no feeder swine or breeder swine are present at the facility, unless the facility has provisions to keep slaughter swine physically separated from feeder swine and breeder swine or unless those areas of the facility used by slaughter swine have been cleaned and disinfected before being used by feeder swine or breeder swine.

(iv) No feeder swine or breeder swine may remain in the livestock facility for more than 72 hours, and no slaughter swine may remain in the livestock market for more than 120 hours.

(v) Feeder swine shall be kept separate and apart from other swine while in the livestock facility.

(vi) No release shall be issued for the removal of slaughter swine from the livestock facility unless the slaughter swine are consigned for immediate slaughter or to another slaughter market and the consignee is identified on the release document.

(16) Horses:

- This facility will handle horses: [Initials of operator, date]
- This facility will handle equine infectious anemia (EIA) reactors: [Initials of operator, date]
- This facility will not handle horses known to be EIA reactors and will not permit EIA reactors to enter the facility: [Initials of operator, date]

(i) Horses shall be received, handled, and released by the livestock facility only in accordance with 9 CFR parts 71 and 75.

(ii) Any horses classified as EIA reactors and accepted by the facility for sale shall be placed in quarantined pens at least 200 yards from all non-EIA-reactor horses.

(iii) Any horses classified as EIA reactors and accepted by the facility for sale shall be consigned from the facility only to a slaughtering establishment or to the home farm of the reactor in accordance with 9 CFR part 75.

(iv) Fly Control Program: The livestock facility shall have in effect a fly control program utilizing at least one of the following: Baits, fly strips, electric bug killers ("Fly Zappers," "Fly Snappers," or similar equipment), or the application of a pesticide effective against flies, applied according to the schedule and dosage recommended by the manufacturer for fly control.

Approvals

(17) Request for approval:

I hereby request approval for this facility to operate as an approved livestock facility

for the classes of livestock indicated in paragraphs (14) through (16) of this agreement. I acknowledge that I have received a copy of 9 CFR parts 71, 75, 78 and 85, and acknowledge that I have been informed and understand that failure to abide by the provisions of this agreement and the applicable provisions of 9 CFR parts 71, 75, 78, and 85 constitutes a basis for the withdrawal of this approval. *[Printed name and signature of operator, date of signature]*

(18) Pre-approval inspection of livestock facility conducted by *[printed name and title of APHIS representative]* on *[date of inspection]*.

(19) Recommend approval:

[Printed name and signature of State animal health official, date of signature]

[Printed name and signature of area veterinarian in charge, date of signature]

(20) Approval granted:

[Printed name and signature of the Administrator, Animal and Plant Health Inspection Service, date of signature]

(b) *Denial and withdrawal of approval.* The Administrator may deny or withdraw the approval of a livestock facility to receive livestock moved interstate under this subchapter upon a determination that the livestock facility is not or has not been maintained and operated in accordance with the agreement set forth in paragraph (a) of this section.

(1) In the case of a denial, the operator of the facility will be informed of the reasons for the denial and may appeal the decision in writing to the Administrator within 10 days after receiving notification of the denial. The appeal must include all of the facts and reasons upon which the person relies to show that the livestock facility was wrongfully denied approval to receive livestock moved interstate under this subchapter. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(2) In the case of withdrawal, before such action is taken, the operator of the facility will be informed of the reasons for the proposed withdrawal. The operator of the facility may appeal the proposed withdrawal in writing to the Administrator within 10 days after being informed of the reasons for the

proposed withdrawal. The appeal must include all of the facts and reasons upon which the person relies to show that the reasons for the proposed withdrawal are incorrect or do not support the withdrawal of the approval of the livestock facility to receive livestock moved interstate under this subchapter. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, withdrawal shall become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

(3) Approval for a livestock facility to handle livestock under this subchapter will be automatically withdrawn by the Administrator when:

(i) The operator of the facility notifies the Administrator, in writing, that the facility no longer handles livestock moved interstate under this subchapter; or

(ii) The person who signed the agreement executed in accordance with paragraph (a) of this section is no longer responsible for the day-to-day operations of the facility.

[62 FR 27934, May 22, 1997, as amended at 62 FR 54758, Oct. 22, 1997; 63 FR 32119, June 12, 1998; 68 FR 62226, Nov. 3, 2003]

§71.21 Tissue and blood testing at slaughter.

(a) Any person moving livestock or poultry interstate for slaughter or rendering may only move the animals to a slaughtering establishment or a rendering establishment that has been

listed by the Administrator⁸ for the purposes of this part. Livestock or poultry may not be removed from the premises of a slaughtering establishment or a rendering establishment listed by the Administrator except under a permit issued by APHIS, and in accordance with applicable FSIS regulations in this title. A slaughtering establishment or rendering establishment may receive livestock or poultry in interstate commerce only if the establishment has been listed by the Administrator. The Administrator may list a slaughtering establishment or a rendering establishment after determining that collecting samples for testing from the establishment is not currently necessary for the purposes of APHIS disease surveillance programs and the establishment has agreed to allow testing and to provide the access and facilities required by this section upon future APHIS notification that testing is required at the establishment. The Administrator will list a slaughtering or rendering establishment after determining that it meets the following facility and access requirements:

(1) The establishment provides space and equipment in accordance with paragraph (b) of this section⁹ within their facility for blood and tissue sample collection;

(2) The establishment allows APHIS, FSIS, or APHIS contractors to take blood and tissue samples from all livestock or poultry at the facility without cost to the United States, and specifically allows these personnel access to the processing line to collect samples; and

(3) The establishment allows APHIS, FSIS, or APHIS contractors to record the identification of individual animals and retain any external or internal identification devices.

(b) The establishment must provide office and sample collection space, including necessary furnishings, light,

heat, and janitor service, rent free, for the use by APHIS, FSIS, or APHIS contractors collecting samples for blood and tissue testing under this section. The Administrator will inform each establishment of the exact amount and type of space required, taking into account whether APHIS will be conducting complete tests at the facility, or only collecting samples and sending them elsewhere for testing. At the discretion of the Administrator, small plants need not furnish facilities as prescribed in this section if adequate facilities exist in a nearby convenient location. In granting or denying listing of an establishment, the Administrator will consider whether the space at the facility:

(1) Is conveniently located, properly ventilated, and provided with lockers suitable for the protection and storage of supplies;

(2) Has sufficient light to be adequate for proper conduct of sample collection and processing;

(3) Includes racks, receptacles, or other suitable devices for retaining such parts as the head, glands, and viscera, and all parts and blood to be collected, until after the post-mortem examination is completed;

(4) Includes tables, benches, and other equipment on which sample collection and processing are to be performed, of such design, material, and construction as to enable sample collection and processing in a safe, ready, efficient, and clean manner;

(5) Has adequate arrangements, including liquid soap and cleansers, for cleansing and disinfecting hands, dissection tools, floors, and other articles and places that may be contaminated by diseased carcasses or otherwise; and

(6) Has adequate facilities, including denaturing materials, for the proper disposal in accordance with this chapter of tissue, blood, and other waste generated during test sample collection.

(c) The Administrator will give the operator of the establishment actual notice that APHIS, FSIS, or an APHIS contractor will be taking blood and/or tissue samples at the establishment. The Administrator may give the operator of the establishment notice in any

⁸A list of these slaughtering or rendering establishments may be obtained by writing to National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231.

⁹FSIS also has equipment and space requirements for official establishments at § 307.2(c) of this title.

form or by any means that the Administrator reasonably believes will reach the operator of the establishment prior to the start of sample collection.

(1) The notice will include the anticipated date and time sample collection will begin. The notice will also include the anticipated ending date and time.

(2) The Administrator will give the operator of the establishment as much advance notice as possible. However, the actual amount of notice will depend on the specific situation.

(d) *Denial and withdrawal of listing.* The Administrator may deny or withdraw the listing of an establishment upon a determination that the establishment is not in compliance with the requirements of this section.

(1) In the case of a denial, the operator of the establishment will be informed of the reasons for the denial and may appeal the decision in writing to the Administrator within 10 days after receiving notification of the denial. The appeal must include all of the facts and reasons upon which the person relies to show that the establishment was wrongfully denied listing. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(2) In the case of withdrawal, before such action is taken, the operator of the establishment will be informed of the reasons for the proposed withdrawal. The operator of the establishment may appeal the proposed withdrawal in writing to the Administrator within 10 days after being informed of the reasons for the proposed withdrawal. The appeal must include all of the facts and reasons upon which the person relies to show that the reasons for the proposed withdrawal are incorrect or do not support the withdrawal of the listing. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice

concerning the hearing will be adopted by the Administrator. However, withdrawal shall become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the establishment. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

(Approved by the Office of Management and Budget under control number 0579–0212.)

[69 FR 10150, Mar. 4, 2004]

§ 71.22 Removal and loss of official identification devices.

Official identification devices are intended to provide permanent identification of livestock and to ensure the ability to find the source of animal disease outbreaks. Removal of these devices is prohibited except at the time of slaughter. If an official identification device is lost, and it is necessary to retag an animal with a new official number, every effort should be made to correlate the new official number with the previous official number of the animal.

[69 FR 64649, Nov. 8, 2004]

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

Sec.

72.1 Ticks [Boophilus annulatus (Margaropus annulatus), Boophilus microplus, or Rhipicephalus evertsi evertsi]; interstate movement of infested or exposed animals prohibited.

72.2 Splenetic or tick fever in cattle in Texas, the Virgin Islands of the United States and vectors of said disease in the Northern Mariana Islands, the Commonwealth of Puerto Rico and the Island of Guam: Restrictions on movement of cattle.

72.3 Areas quarantined in the Virgin Islands of the United States, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Island of Guam.

72.4 [Reserved]

- 72.5 Area quarantined in Texas.
- 72.6 Interstate movement of cattle from quarantined areas not eradicating ticks.
- 72.7 Interstate movement of cattle from co-operating States.
- 72.8 Interstate movement of cattle from free premises upon inspection and certification by APHIS inspector.
- 72.9 Interstate movements of cattle; inspection and certification by APHIS inspector required.
- 72.10 Inspected or dipped and certified cattle subject to restrictions of State of destination.
- 72.11 Quarantined area; cattle considered infested; requirements for placing in non-infectious pens or premises.
- 72.12 Cattle; exposure to tick infestation after treatment or inspection prohibited.
- 72.13 Permitted dips and procedures.
- 72.14 [Reserved]
- 72.15 Owners assume responsibility; must execute agreement prior to dipping or treatment waiving all claims against United States.
- 72.16 Designated dipping stations to be approved by the Administrator, APHIS on recommendations of State authorities; facilities.
- 72.17 Unloading noninfected cattle for rest, feed, and water only, permitted in authorized pens for such purpose.
- 72.18 Movement interstate; specification by the Deputy Administrator, Veterinary Services of treatment required when dipping facilities unavailable.
- 72.19 Interstate shipments and use of pine straw, grass, litter from quarantined area; prohibited until disinfected.
- 72.20 Exhibition of noninfected cattle in the quarantined area; restrictions under which permitted.
- 72.21 Animals infested with or exposed to ticks subject to same restrictions as cattle.
- 72.22 Cars, vehicles, and premises; cleaning and treatment after containing infested or exposed animals.
- 72.23 Cars or other vehicles having carried infested or exposed cattle in quarantined area shall be cleaned and treated.
- 72.24 Litter and manure from carriers and premises of tick-infested animals; destruction or treating required.
- 72.25 Dipping methods.

AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 28 FR 5940, June 13, 1963, unless otherwise noted.

§ 72.1 Ticks [Boophilus annulatus (Margaropus annulatus), Boophilus microplus, or Rhipicephalus evertsi evertsi]; interstate movement of infested or exposed animals prohibited.

No animals infested with ticks [Boophilus annulatus (Margaropus annulatus), Boophilus microplus, or Rhipicephalus evertsi evertsi] or exposed to tick infestation shall be shipped, trailed, driven, or otherwise moved interstate for any purpose, except as provided in this part.

§ 72.2 Splenetic or tick fever in cattle in Texas, the Virgin Islands of the United States and vectors of said disease in the Northern Mariana Islands, the Commonwealth of Puerto Rico and the Island of Guam: Restrictions on movement of cattle.

Notice is hereby given that the contagious, infectious, and communicable disease known as splenetic or tick fever exists in cattle in portions of the State of Texas and the Virgin Islands of the United States. Notice is also hereby given that ticks which are vectors of said disease exist in the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Island of Guam. Therefore, portions of the State of Texas, the Virgin Islands of the United States, the Northern Mariana Islands, the Commonwealth of Puerto Rico and the Island of Guam are hereby quarantined as provided in §§ 72.3 and 72.5, and the movement of cattle therefrom into any other State or Territory or the District of Columbia shall be made only in accordance with the provisions of this part and part 71 of this chapter.

[43 FR 60864, Dec. 29, 1978]

§ 72.3 Areas quarantined in the Virgin Islands of the United States, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Island of Guam.

The entire Territories of the Virgin Islands of the United States and the Island of Guam, the Northern Mariana Islands, and the Commonwealth of Puerto Rico are quarantined.

[43 FR 60864, Dec. 29, 1978]

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§ 72.4 [Reserved]

§ 72.5 Area quarantined in Texas.

The area quarantined in Texas is the quarantined area described in the regulations of the Texas Animal Health Commission (TAHC) contained in §§41.14 through 41.22 of title 4, part II, of the Texas Administrative Code (4 TAC 41.14 through 41.22), effective June 23, 2002, which is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of 4 TAC 41.14 through 41.22 may be obtained from the TAHC at 2105 Kramer Lane, Austin, TX 78758, and from area offices of the TAHC, which are listed in local Texas telephone directories. The TAHC also maintains a copy of its regulations on its Internet homepage at <http://www.tahc.state.tx.us/>. Copies may be inspected at the Animal and Plant Health Inspection Service, Veterinary Services, suite 3B08, 4700 River Road, Riverdale, MD, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

[69 FR 8329, Feb. 24, 2004, as amended at 69 FR 18803, Apr. 9, 2004]

§ 72.6 Interstate movement of cattle from quarantined areas not eradicating ticks.

Cattle in quarantined areas where tick eradication is not being conducted³ may be shipped or transported interstate in accordance with §§72.9 through 72.15 under the following conditions: The cattle must have been dipped twice with a permitted dip as provided in §72.13, with an interval of 7 to 12 days between dippings immediately preceding shipment, at a designated dipping station approved under §72.16 and located in the State of origin

³Information regarding the identities of such areas may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs, 4700 River Road Unit 43, Riverdale, Maryland 20737-1231.

of the shipment or, in specific cases, after having been otherwise treated at a designated dipping station under the supervision of an APHIS inspector and in a manner approved by the Administrator. In all cases, the cattle must be inspected by an APHIS inspector just prior to final dipping, found to be apparently free of ticks, and be certified as such by APHIS before the cattle may be released for interstate movement.

[66 FR 21061, Apr. 27, 2001]

§ 72.7 Interstate movement of cattle from cooperating States.

Cattle in areas where tick eradication is being conducted in cooperation with State authorities,³ which on inspection by an APHIS inspector are found to be apparently free from ticks, may, after one dipping, with a permitted dip as provided in §72.13, under the supervision of an APHIS inspector and certification by the inspector, be shipped or transported interstate for dip as provided in §72.13, under the supervision of an APHIS inspector and certification by the inspector, be shipped or transported interstate for any purpose upon compliance with the requirements set forth in §§72.9 through 72.15.

[36 FR 20358, Oct. 21, 1971, as amended at 56 FR 51975, Oct. 17, 1991]

§ 72.8 Interstate movement of cattle from free premises upon inspection and certification by APHIS inspector.

Cattle located in areas where tick eradication is being conducted in cooperation with the State authorities, and which are on premises shown by the official records of tick eradication to be free from ticks, may, upon inspection and certification by an APHIS inspector, be shipped or transported interstate for any purpose without dipping upon compliance with the requirements set forth under §§72.9, 72.10, 72.12.

[28 FR 5940, June 13, 1963, as amended at 56 FR 51975, Oct. 17, 1991]

§ 72.9 Interstate movements of cattle; inspection and certification by APHIS inspector required.

All interstate movements of inspected and certified and dipped and certified cattle shall be accompanied to final destination by a certificate of an APHIS inspector (which certificate shall show that the cattle so being moved have been dipped as required by § 72.6 or by § 72.7 and are free of ticks, or have been inspected as required by § 72.8 and are free of ticks); all such certificates shall be handled, delivered, kept, and preserved in accordance with the provisions of § 72.16; and all such cattle shall be handled through non-infectious pens, alleys, and chutes, and when shipped shall be loaded into clean and disinfected cars or trucks, and shall not be unloaded in the quarantined area except at such points reserved for noninfested cattle as may from time to time be authorized by APHIS.

[28 FR 5940, June 13, 1963, as amended at 56 FR 51975, Oct. 17, 1991]

§ 72.10 Inspected or dipped and certified cattle subject to restrictions of State of destination.

All such interstate movements of inspected or dipped and certified cattle are subject to such restrictions, which are not inconsistent with the regulations in this subchapter, as may be imposed at destination by the officials of the State, Territory, or the District of Columbia.

§ 72.11 Quarantined area; cattle considered infested; requirements for placing in noninfectious pens or premises.

Cattle of the quarantined area shall be considered infested and shall not be placed in noninfectious pens or premises until after the final inspection or dipping.

§ 72.12 Cattle; exposure to tick infestation after treatment or inspection prohibited.

The cattle shall not be exposed to tick infestation after treatment and/or inspection.

§ 72.13 Permitted dips and procedures.

(a) *Dipping requirements; facilities; handling.* The dipping of cattle for interstate movement shall be done only with a permitted dip and at places where proper equipment is provided for dipping and for handling the cattle in a manner to prevent exposure to infection after the final dipping. Cattle which are to be dipped shall be given an opportunity to drink sufficient water to quench their thirst prior to dipping, be carefully handled, and not dipped while they are in a heated or exhausted condition. Dipped cattle shall not be loaded for shipment until dry.⁴

(b) *Permitted dips.* The dips at present permitted by the Department in official dipping for interstate movement are:

(1) Approved proprietary brands of a Dioxathion (Delnav[®]) emulsifiable concentrate used at a concentration of 0.125 to 0.150 percent.⁴

(2) Approved proprietary brands of coumaphos (Co-Ral[®]), 25 percent wettable powder or flowable form labeled for use as a 0.25 percent dip and used at a concentration of 0.125 to 0.250.⁴

(3) Approved proprietary brands of organophosphorous insecticides (Prolate[®]) if used in a Prolate-water bath where the concentration level is at least 0.15 percent and if used in accordance with the EPA approved label.

(4) Approved proprietary brands of organophosphorous insecticides (Ciodrin[®]) if used in a concentration of 0.44 to 0.54 percent and if used in accordance with the EPA approved label.

(c) *Approval of dips.* Proprietary brands of dips are permitted to be used for purposes of this part only when approved by the Administrator, APHIS. Before a dip will be specifically approved as a permitted dip for the eradication of ticks, APHIS will require

⁴Care is required when treating animals and in maintaining the required concentration of chemicals in dipping baths. Detailed information concerning the use of, criteria for, and names of proprietary brands of permitted dips—as well the use of compressed air, vat management techniques, and other information—is available from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs, 4700 River Road Unit 43, Riverdale, MD 20737-1231.

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that the product be registered under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*); that its efficacy and stability have been demonstrated; that trials have been conducted to determine that its concentration can be maintained and that under actual field conditions the dipping of cattle with a solution of definite strength will effectually eradicate ticks without injury to the animals dipped.

(d) *Tissue residues; restriction on slaughter.* Tissue residues are created following use of certain dips. Animals treated with such dips should not be slaughtered for food purposes until the expiration of such period as may be required under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*). The length of this period shall be specified on each certificate issued by the inspector who supervises the dipping.

[33 FR 18089, Dec. 5, 1968, as amended at 34 FR 12214, July 24, 1969; 36 FR 19157, Sept. 30, 1971; 36 FR 19972, Oct. 14, 1971; 37 FR 13529, July 11, 1972; 38 FR 19012, July 17, 1973; 40 FR 12768, Mar. 21, 1975; 42 FR 19854, Apr. 15, 1977; 47 FR 11002, Mar. 15, 1982; 49 FR 19799, May 10, 1984; 49 FR 32540, Aug. 15, 1984; 50 FR 430, 431, Jan. 4, 1985; 56 FR 51974, Oct. 17, 1991; 66 FR 21062, Apr. 27, 2001]

§ 72.14 [Reserved]

§ 72.15 Owners assume responsibility; must execute agreement prior to dipping or treatment waiving all claims against United States.

When the cattle are to be dipped under APHIS supervision the owner of the cattle, offered for shipment, or his agent duly authorized thereto, shall first execute and deliver to an APHIS inspector an application for inspection and supervised dipping wherein he shall agree to waive all claims against the United States for any loss or damage to said cattle occasioned by or resulting from dipping or other treatment under this part, or resulting from any subsequent treatment prior to their interstate shipment, or resulting from the fact that they are later found to be still tick infested, and also for all subsequent loss or damage to any other cattle in the possession or control of such owner which may come into con-

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tact with the cattle so dipped or treated.

[28 FR 5940, June 13, 1963, as amended at 56 FR 51975, Oct. 17, 1991]

§ 72.16 Designated dipping stations to be approved by the Administrator, APHIS on recommendations of State authorities; facilities.

When deemed advisable and upon recommendation by the proper livestock sanitary authorities, designated dipping stations may be approved by the Administrator, APHIS as points at which cattle of the quarantined area of the State in which said station is located may be inspected, dipped, and certified for interstate movement. The facilities furnished shall include proper dipping equipment, noninfectious pens constructed in accordance with § 72.17 and a roofed or covered section of pens of sufficient size to protect all dipped animals from exposure to rain or hot sun. All alleys, chutes, and pens shall be paved or properly floored.

[28 FR 5940, June 13, 1963, as amended at 50 FR 430, Jan. 4, 1985; 56 FR 51974, Oct. 17, 1991]

§ 72.17 Unloading noninfected cattle for rest, feed, and water only, permitted in authorized pens for such purpose.

(a) *Specifications for construction and maintenance.* Cattle of the free area, and cattle of the quarantined area when properly dipped, inspected, and certified in accordance with this part, which are transported interstate by rail through the quarantined area shall not be unloaded therein for rest, feed, and water unless they are unloaded into the properly equipped, noninfectious pens set apart for such cattle at such points as may from time to time be authorized by APHIS. Such noninfectious pens and the platforms, chutes, and alleys leading thereto shall be constructed and maintained in accordance with the specifications set out in paragraphs (a)(1) to (6) of this section.

(1) The outside fences enclosing such pens, and the fences on either side of the alleys, chutes, and platforms leading thereto, shall be tight board fences not less than 6 feet high on the inside.

(2) If such pens, alleys, chutes, and platforms are adjacent to pens, alleys,

chutes, and platforms used by cattle of the quarantined area, there shall be between them a space not less than 10 feet wide, which shall be inaccessible to livestock. This space shall be limited on each side by the 6-foot fence required by paragraph (a)(1) of this section. The remaining space around such yards shall be limited as in paragraph (a)(3) of this section.

(3) If such pens, alleys, chutes, and platforms are isolated from other pens, alleys, chutes, or platforms, there shall be built and maintained outside thereof on all sides to which cattle of the vicinity might otherwise approach a cattle-proof fence not less than 5 feet high and not less than 15 feet from the 6-foot fence required by paragraph (a)(1) of this section.

(4) The only means of egress from such pens shall be by way of the alleys, chutes, and platforms inclosed by 6-foot fences as required by paragraph (a)(1) of this section, to cars for reforwarding; and under no circumstances shall there exist any connection between such pens and other adjacent premises.

(5) Such noninfectious premises shall be so located, or such drainage facilities shall be provided therefor, that water from the surrounding area will not flow on to or through them.

(6) Such pens shall be marked by a conspicuous sign bearing the words "Noninfectious Pens" in letters not less than 10 inches in height.

(b) *Materials for use in noninfectious pens; source, shipment, handling.* The hay, straw, or similar materials required for feed and bedding in such noninfectious pens shall be shipped in noninfectious cars from points outside of the quarantined area so handled that they may not become infectious.

[28 FR 5940, June 13, 1963, as amended at 56 FR 51975, Oct. 17, 1991]

§ 72.18 Movement interstate; specification by the Deputy Administrator, Veterinary Services of treatment required when dipping facilities unavailable.

(a) *Tick-infested cattle.* Cattle of the free area which are tick-infested may be moved interstate for any purpose after they have been treated in the same manner as cattle under § 72.6: *Pro-*

vided, however, That when dipping equipment is not available at the place where the cattle are, said treatment shall be given at a place and in the manner specified by the Administrator, APHIS.

(b) *Tick-exposed cattle.* Cattle of the free area which have been exposed to tick infestation may be moved interstate for any purpose after they have been treated in the same manner as cattle under § 72.7: *Provided, however,* That when dipping equipment is not available at the place where the cattle are, said treatment shall be given at a place and in the manner specified by the Administrator, APHIS.

(c) *Cattle moved contrary to regulations.* Cattle which have been moved from the quarantined area to the free area without first having been treated in the manner provided in either § 72.6 or § 72.7 or inspected in the manner provided in § 72.8 shall not be shipped or moved interstate until they have been treated in the same manner as cattle under § 72.6: *Provided, however,* That when dipping equipment is not available at the place where the cattle are, said treatment shall be given at a place and in the manner specified by the Administrator, APHIS.

[28 FR 5940, June 13, 1963, as amended at 50 FR 430, Jan. 4, 1985; 56 FR 51974, Oct. 17, 1991]

§ 72.19 Interstate shipments and use of pine straw, grass, litter from quarantined area; prohibited until disinfected.

Pine straw, grass, or similar litter collected from tick-infested pastures, ranges, or premises may disseminate the contagion of splenetic, southern, or Texas fever; therefore pine straw, grass, or similar litter originating in the quarantined area shall not be transported or moved interstate therefrom or used as packing material or car bedding for commodities or livestock to be transported or moved from the quarantined area of any State, Territory, or the District of Columbia, to or through the free area of any other State, Territory, or the District of Columbia, unless such material is first disinfected in accordance with the provisions of § 72.24.

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§ 72.20 Exhibition of noninfected cattle in the quarantined area; restrictions under which permitted.

The exhibition of noninfected cattle at fairs or exhibitions in the quarantined area and their reshipment to the free area without dipping may, by written order of the Administrator, APHIS be permitted: *Provided*, That the cattle shall be handled under such conditions as may be prescribed in each case to preclude any danger of the spread of infection.

[28 FR 5940, June 13, 1963, as amended at 56 FR 51974, Oct. 17, 1991]

§ 72.21 Animals infested with or exposed to ticks subject to same restrictions as cattle.

Animals other than cattle which are infested with ticks [Boophilus annulatus (Margaropus annulatus), Boophilus microplus, or Rhipicephalus evertsi evertsi] or exposed to tick infestation shall not be moved interstate unless they are treated, handled, and moved in accordance with the requirements specified in §§ 72.9 through 72.15 and § 72.18 of this part governing the interstate movement of cattle.

§ 72.22 Cars, vehicles, and premises; cleaning and treatment after containing infested or exposed animals.

Cars and other vehicles, and yards, pens, chutes, or other premises or facilities, which have contained interstate shipments of animals infested with or exposed to ticks, shall be cleaned and treated within 72 hours of use and prior to further use in the required concentration with a permitted dip listed in § 72.13 under supervision of a State or Federal inspector or an accredited veterinarian.

[38 FR 21996, Aug. 15, 1973]

§ 72.23 Cars or other vehicles having carried infested or exposed cattle in quarantined area shall be cleaned and treated.

Cars or other vehicles which have carried cattle exposed to or infested with ticks within the quarantined area of any State shall be cleaned and treated in the required concentration with a permitted dip listed in § 72.13 before being moved interstate under super-

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vision of a State or Federal inspector or an accredited veterinarian.

[38 FR 21996, Aug. 15, 1973]

§ 72.24 Litter and manure from carriers and premises of tick-infested animals; destruction or treating required.

The litter and manure removed from cars, boats, or other vehicles and from pens, chutes, alleys, or other premises or inclosures which have contained interstate shipments of tick-infested animals, shall be destroyed or treated by the transportation or yard company, or other owner thereof, under APHIS supervision, by saturating it in the required concentration with a permitted dip listed in § 72.13, or shall be otherwise disposed of under prior permission received from the Administrator, APHIS.

[38 FR 21996, Aug. 15, 1973, as amended at 56 FR 51974, 51975, Oct. 17, 1991]

§ 72.25 Dipping methods.

Dipping is accomplished by thoroughly wetting the entire skin by either immersion in a chemical solution in a dip vat, or by spraying with a chemical solution using a spray-dip machine or a hand-held sprayer.

[50 FR 430, Jan. 4, 1985]

PART 73—SCABIES IN CATTLE

Sec.

73.1 Interstate movement prohibited.

73.1a [Reserved]

73.1b Quarantine policy.

73.1c Definitions.

73.2 Interstate shipment for immediate slaughter from quarantined or nonquarantined areas; conditions under which permitted.

73.3 Shipment for purposes other than slaughter; conditions under which permitted.

73.4 Interstate shipment of exposed but not visibly diseased cattle from a quarantined or nonquarantined area; conditions under which permitted.

73.5 Interstate shipment of undiseased cattle from quarantined area; when permitted.

73.6 Placarding means of conveyance and marking billing of shipments of treated scabby cattle or cattle exposed to scabies.

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- 73.7 Movement from quarantined to free area and shipment therefrom; restrictions under which permitted.
- 73.8 Cattle infected or exposed during transit.
- 73.9 Owners assume responsibility; must execute agreement prior to dipping or treatment waiving all claims against United States.
- 73.10 Permitted dips; substances allowed.
- 73.11 Treatment of means of conveyance and premises having contained scabby cattle.
- 73.12 Ivermectin.

AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

§ 73.1 Interstate movement prohibited.

(a) *Cattle affected with scabies.* No cattle affected with scabies shall be shipped, trailed, driven, or otherwise moved interstate for any purpose except as provided in this part.

(b) *Cattle affected with or exposed to scabies.* No cattle which, just prior to movement, were affected with or exposed to scabies shall be shipped, trailed, driven, or otherwise moved interstate for any purpose except as provided in this part.

(c) *Cattle from area quarantined for scabies.* No cattle shall be shipped, trailed, driven, or otherwise moved interstate from the area quarantined for the disease of scabies in cattle except as provided in this part.

[28 FR 5945, June 13, 1963, as amended at 41 FR 5384, Feb. 6, 1976]

§ 73.1a [Reserved]

§ 73.1b Quarantine policy.

Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Secretary may promulgate regulations and may prohibit or restrict the movement in interstate commerce of any animal, article, or means of conveyance as the Secretary determines necessary to prevent the introduction or dissemination of any pest or disease of livestock. Pursuant to this authority, the Department has quarantined various areas because of cattle scabies and has issued the regulations in this part governing the interstate movement of cattle from such areas. It is the policy of the Department to quarantine those portions of any State that are clearly identifiable, and in which exist animals af-

ected with cattle scabies, or mites which are the contagion of said disease and not to quarantine an entire State for cattle scabies if the State adopts and enforces requirements for the intrastate movement of cattle that are at least as stringent as the requirements in the regulations in this part for interstate movements of cattle. Further, it is the policy of the Department to remove the quarantine from any quarantined area when it is determined that scabies-affected animals and the mites which are the contagion of scabies no longer exist in such areas.

[38 FR 31671, Nov. 16, 1973, as amended at 68 FR 6343, Feb. 7, 2003]

§ 73.1c Definitions.

For purposes of this part the following terms shall have the meaning set forth in this section.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

APHIS Inspector. A veterinarian or livestock inspector employed by the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, in animal health activities, who is authorized to perform the function involved.

State Inspector. A veterinarian or livestock inspector regularly employed in animal health activities by a State or a political subdivision thereof, authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the U.S. Department of Agriculture.

[41 FR 5384, Feb. 6, 1976, as amended at 56 FR 52463, Oct. 21, 1991]

§ 73.2 Interstate shipment for immediate slaughter from quarantined or nonquarantined areas; conditions under which permitted.

(a) *Conditions under which permitted after one dipping.* Cattle which, just prior to shipment, were affected with scabies but have been dipped once in a permitted dip (other than a toxaphene dip), under the supervision of an

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APHIS inspector or State inspector, within 10 days prior to the date of shipment may be shipped or transported interstate for immediate slaughter to a recognized slaughtering center, upon compliance with the following conditions:

(1) They shall not be diverted en route.

(2) The means of conveyance shall be placarded and the billing shall be marked "Treated Scabby Cattle," in accordance with § 73.6.

(b) *After one dipping; to be slaughtered within 14 days or redipped by owner.* Cattle shipped interstate subject to the provisions of paragraph (a) of this section shall be slaughtered within 14 days from the date of the dipping or shall be again dipped by the owner.

(c) *When part of diseased herd not visibly affected.* Cattle of the free area not visibly diseased with scabies, but which may be part of a diseased herd, may be shipped or transported interstate for immediate slaughter to any recognized slaughtering center where separate pens are provided for yarding exposed cattle: *Provided,* That means of conveyance in which the cattle are transported shall be placarded and the billing accompanying the shipment shall be marked "Cattle Exposed to Scabies" in accordance with § 73.6.

(d) *Undiseased herds in quarantined area; conditions under which permitted.* Cattle of herds of the quarantined area which are not diseased with scabies may be shipped, transported, or otherwise moved interstate for immediate slaughter, upon inspection by an APHIS or State inspector within 10 days prior to the date of shipment and when accompanied by a certificate from such inspector showing the cattle to be free from disease.

[31 FR 8907, June 28, 1966, as amended at 36 FR 23996, Dec. 17, 1971; 38 FR 18011, July 6, 1973; 41 FR 5384, Feb. 6, 1976; 49 FR 10530, Mar. 20, 1984; 49 FR 33120, Aug. 21, 1984; 56 FR 52463, Oct. 21, 1991; 66 FR 21062, Apr. 27, 2001]

§ 73.3 Shipment for purposes other than slaughter; conditions under which permitted.

Cattle affected with scabies may be shipped interstate for any purpose if dipped twice in a permitted dip, 10 to 14 days apart, under the supervision of an

APHIS inspector or State inspector, and so certified by such inspector, or such cattle may be so shipped if dipped once in a permitted dip under APHIS supervision or State supervision at the point of origin, provided arrangements have been made for the second dipping, under APHIS supervision, en route or at destination within 10 to 14 days after the first dipping. If shipped in the latter manner the means of conveyance containing the cattle shall be placarded and the billing shall be marked "Treated Scabby Cattle," in accordance with § 73.6.

[28 FR 5945, June 13, 1963, as amended at 41 FR 5384, Feb. 6, 1976; 49 FR 10530, Mar. 20, 1984; 49 FR 33120, Aug. 21, 1984; 56 FR 52463, Oct. 21, 1991; 66 FR 21062, Apr. 27, 2001]

§ 73.4 Interstate shipment of exposed but not visibly diseased cattle from a quarantined or nonquarantined area; conditions under which permitted.

Cattle not visibly diseased with scabies, but which are known to be part of a diseased herd or to have come in contact with diseased cattle or infectious means of conveyance or premises, may be shipped interstate for any purpose if dipped at the point of origin, under the supervision of an APHIS inspector or State inspector, in a permitted dip, or the cattle may be dipped en route by special permission first had and obtained from the Administrator; but in such event the means of conveyance shall be placarded and the billing shall be marked "Cattle Exposed to Scabies," in accordance with § 73.6, and the cattle shall not be permitted to mingle with other cattle until disposed of in accordance with the regulations in this part.

[28 FR 5945, June 13, 1963, as amended at 41 FR 5384, Feb. 6, 1976; 56 FR 52463, Oct. 21, 1991]

§ 73.5 Interstate shipment of undiseased cattle from quarantined area; when permitted.

Cattle of any herd in any quarantined area, which herd is not diseased with scabies, may be shipped, transported, or otherwise moved interstate for any purpose upon inspection by an APHIS or State inspector within 10 days prior to the date of shipment

and when accompanied by a certificate from such inspector showing the cattle to be free from such disease or exposure thereto. When it is determined by the Administrator that all cattle of all herds in any quarantined area have been inspected for scabies by an APHIS or State inspector, that all the infected or exposed herds have been identified, and that all the infected herds have been dipped twice, and all the exposed herds have been dipped in a permitted dip as prescribed in § 73.10, under supervision of an APHIS or APHIS-approved inspector, cattle of herds in such area which are not diseased with or exposed to scabies may be moved interstate in accordance with this section, without further APHIS inspection or certification, directly to a slaughtering plant where Federal Meat Inspection is maintained: *Provided further*, that treatment with ivermectin may be used in lieu of dipping for a herd of cattle treated together if the herd is physically separated for 14 days following treatment from all cattle not a part of the herd treated together with ivermectin. Information may be obtained from an APHIS inspector whether a determination as required by this section is currently applicable to authorize such movement. Cattle moved interstate under this section shall not be diverted en route and must be accompanied by a waybill or similar document, or a statement signed by the owner or shipper of the cattle, stating: (a) That the cattle are not known to be infected with scabies or exposed thereto; (b) [Reserved]; (c) the purpose for which the cattle are to be moved; (d) the number of the cattle; (e) the point from which the cattle are to be moved interstate; (f) that the cattle shall not be diverted en route; and (g) the name and address of the owner or shipper of the cattle.

(Approved by the Office of Management and Budget under control number 0579-0051)

[31 FR 8907, June 28, 1966 as amended at 36 FR 23996, Dec. 17, 1971; 38 FR 10252, Apr. 26, 1973; 38 FR 18011, July 6, 1973; 41 FR 5384, Feb. 6, 1976; 48 FR 57472, Dec. 30, 1983; 49 FR 10530, Mar. 20, 1984; 49 FR 33120, Aug. 21, 1984; 56 FR 52463, Oct. 21, 1991; 66 FR 21062, Apr. 27, 2001]

§ 73.6 Placarding means of conveyance and marking billing of shipments of treated scabby cattle or cattle exposed to scabies.

When cattle are shipped as "Treated Scabby Cattle," or "Cattle Exposed to Scabies," the transportation companies shall securely affix to and maintain upon both sides of each means of conveyance carrying such cattle a durable, conspicuous placard, not less than 5½ by 8 inches in size, on which shall be printed with permanent black ink in boldfaced letters, not less than 1½ inches in height, the words, "Treated Scabby Cattle," or "Cattle Exposed to Scabies," as the case may be. These placards shall also show the name of the place from which the shipment was made, the date of the shipment (which must correspond to the date of the waybills and other papers), the name of the transportation company, and the name of the place of destination. The carrier issuing the waybills, conductors' manifests, memoranda, and bills of lading pertaining to such shipments shall plainly write or stamp upon the face of each such paper the words, "Treated Scabby Cattle," or "Cattle Exposed to Scabies," as the case may be. If for any reason the placards required by this part have not been affixed to the means of conveyance as aforesaid, or the placards have been removed, destroyed, or rendered illegible, or the cattle are rebilled or are transferred to other means of conveyance, the placards shall be immediately affixed or replaced by the carrier, and the new waybills shall be marked as aforesaid by the carrier issuing them, the intention being that the billing accompanying the shipment shall be marked and the means of conveyance containing the cattle shall be placarded "Treated Scabby Cattle," or "Cattle Exposed to Scabies," as the case may be, from the time of shipment until the cattle arrive at destination or point of dipping and the disposition of the means of conveyance is indicated by an APHIS inspector or State inspector.

[28 FR 5945, June 13, 1963, as amended at 41 FR 5384, Feb. 6, 1976; 49 FR 10530, Mar. 20, 1984; 49 FR 33120, Aug. 21, 1984; 56 FR 52463, Oct. 21, 1991; 66 FR 21062, Apr. 27, 2001]

§ 73.7 Movement from quarantined to free area and shipment therefrom; restrictions under which permitted.

No person, firm, or corporation shall deliver for transportation, transport, drive on foot, or otherwise move interstate from the free area of any State, Territory, or the District of Columbia any cattle which have been moved from the quarantined area of the same State, Territory, or the District of Columbia into such free area: *Provided, however,* That such cattle may be delivered for transportation, transported, driven on foot, or otherwise moved interstate for the purposes for which the shipment, transportation, or other movement interstate of cattle of the quarantined area is permitted by this part, *Provided,* That in such shipment and transportation or other movement the requirements of this part governing the shipment and transportation or other movement of cattle of the quarantined area are strictly complied with: *And provided further,* That this section shall not apply to cattle of the quarantined area which, before being moved into the free area, are certified by an APHIS inspector or State inspector as free from disease and are accompanied by such certificate in their shipment by transportation or other movement interstate.

(Approved by the Office of Management and Budget under control number 0579–0051)

(44 U.S.C. 3506)

[28 FR 5945, June 13, 1963, as amended at 41 FR 5384, Feb. 6, 1976; 48 FR 57472, Dec. 30, 1983; 56 FR 52463, Oct. 21, 1991]

§ 73.8 Cattle infected or exposed during transit.

(a) *Healthy cattle from unquarantined State exposed en route.* Should healthy cattle in transit from a State not quarantined by the Secretary of Agriculture for scabies in cattle be unloaded en route and placed in infectious premises, they shall be treated as exposed cattle, and their further movement shall be subject to the provisions of this part with respect to the movement of exposed cattle.

(b) *Interstate shipments of cattle under APHIS or State certificate found affected or exposed en route.* Cattle shipped interstate under a certificate from an

APHIS inspector or State inspector or other cattle which are found en route to be affected with scabies or to have been exposed thereto, shall thereafter be handled in the same manner as diseased or exposed cattle are required by this part to be handled, and the means of conveyance and the chutes, alleys, and pens which have been occupied by diseased animals shall be cleaned and disinfected as provided in §§ 71.4 through 71.11 of this subchapter.

[28 FR 5945, June 13, 1963, as amended at 41 FR 5384, Feb. 6, 1976; 56 FR 52463, Oct. 21, 1991]

§ 73.9 Owners assume responsibility; must execute agreement prior to dipping or treatment waiving all claims against United States.

When the cattle are to be dipped under APHIS supervision or control, the owner of the cattle offered for shipment, or his agent duly authorized thereto, shall first execute and deliver to an APHIS inspector an application for inspection and supervised dipping wherein he shall agree to waive all claims against the United States for any loss or damage to said cattle occasioned by or resulting from dipping or other treatment under this part, or resulting from any subsequent treatment prior to their interstate shipment, or resulting from the fact that they are later found to be still scabies infested, and also for all subsequent loss or damage to any other cattle in the possession or control of such owner which may come into contact with the cattle so dipped or treated.

[41 FR 4012, Jan. 28, 1976, as amended at 56 FR 52463, Oct. 21, 1991]

§ 73.10 Permitted dips; substances allowed.

(a) The dips at present permitted by the Department for the treatment, as required in this part, of cattle affected with or exposed to scabies, are as follows:

(1) Lime-sulphur dip, other than proprietary brands thereof, made in the proportion of 12 pounds of unslaked lime (or 16 pounds of commercial hydrated lime, not airslaked lime) and 24 pounds of flowers of sulphur or sulphur

flour to 100 gallons of water; or a specifically permitted proprietary brand of lime-sulphur dip.

(2) Dips made from specifically permitted proprietary brand emulsions of toxaphene and maintained throughout the dipping operation at a concentration between 0.50 and 0.60 percent toxaphene. Animals treated by such dips should not be slaughtered for food purposes until the expiration of such period as may be required under the Federal Meat Inspection Act (21 U.S.C., Supp. III, 601 *et seq.*). The length of this required period shall be specified on each certificate issued by the APHIS inspector or State inspector who supervises the dipping with such dips.

(3) Approved proprietary brands of coumaphos (Co-Ral®), 25 percent wettable powder or flowable form used at a concentration of 0.30 percent.

(4) Approved proprietary brands of organophosphorous insecticides (Prolate®) used at a concentration of 0.15 percent to 0.25 percent.

(b) The dipping bath for lime-sulphur dip must be used at a temperature of 95 ° to 105 °F., and must be maintained through the dipping operation at a concentration of not less than 2 percent of "sulphide sulphur", as indicated by the field test for lime-sulphur dipping baths approved by the APHIS.¹ The dipping bath for toxaphene emulsions must be kept within a temperature range of 40°-80 °F., and at a concentration between 0.50 and 0.60 percent throughout the dipping operations.²

(c) Proprietary brands of lime-sulphur or toxaphene dips may be used in official dipping only after specific permission therefor has been granted by the Administrator. Before a dip will be specifically approved as a permitted dip for the eradication of scabies in

cattle, the APHIS³ will require that the product be registered under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*); that is efficacy and stability have been demonstrated; that trials have been conducted to determine that its concentration can be maintained and that under actual filed conditions the dipping of cattle in a bath of definite strength will effectually eradicate scabies infection without injury to the animals dipped.

[34 FR 7443, May 8, 1969, as amended at 39 FR 39715, Nov. 11, 1974; 40 FR 12768, Mar. 21, 1975; 40 FR 42179, Sept. 11, 1975; 41 FR 5384, Feb. 6, 1976; 41 FR 37307, Sept. 3, 1976; 50 FR 431, Jan. 4, 1985; 56 FR 52463, Oct. 21, 1991]

§ 73.11 Treatment of means of conveyance and premises having contained scabby cattle.

Means of conveyance, yards, pens, sheds, chutes, or other premises or facilities which have contained cattle of a consignment in which scabies is found shall be treated within 72 hours of use and prior to further use in the required concentration with a permitted dip listed in § 73.10 under supervision of a State or Federal inspector or an accredited veterinarian.

[38 FR 21996, Aug. 15, 1973, as amended at 41 FR 5384, Feb. 6, 1976]

§ 73.12 Ivermectin.¹

(a) Cattle affected with scabies or which just prior to movement were affected with or exposed to scabies may

³Information as to the names of such dips may be obtained from the APHIS or a APHIS inspector.

¹Tissue residues remain following treatment with ivermectin. Cattle treated with ivermectin are not allowed to be slaughtered for food purposes until the expiration of such period as may be required under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*). Further, the animal drug regulations in 21 CFR parts 522 and 556 promulgated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) contain limitations on the use of ivermectin and contain tolerances for ivermectin in edible cattle tissue. With respect to the limitations 21 CFR part 522 provides the following: "For subcutaneous use only. Not for intramuscular use. Do not treat cattle within 35 days of slaughter. Because a

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¹The field test for lime-sulphur dipping baths is described in U.S. Department of Agriculture Bulletin 163, for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, at 5 cents a copy.

²Care must be exercised in dipping animals and in maintaining the bath at the standard concentration. Detailed instructions will be issued for the guidance of employees who may be called upon to use them in the scabies eradication program.

be moved interstate from a nonquarantined area after being treated with ivermectin under the supervision of an APHIS inspector or State inspector in accordance with the directions on the label of the drug if the following conditions are met:

(1) Such cattle are kept physically separated for 14 days following treatment from all cattle not part of the group treated together with ivermectin (regardless of whether the cattle are moved interstate before the end of the 14-day period); and

(2) If such cattle are moved interstate before the end of the 14th day following treatment, at the time of interstate movement they are accompanied by a certificate issued and signed by an APHIS inspector or State inspector identifying the group of cattle treated with ivermectin and stating the date on which the cattle were treated with ivermectin; and

(3) If such cattle are moved interstate before the end of the 14th day following treatment, at the time of interstate movement the means of conveyance carrying them is placarded and the billing marked in accordance with § 73.6.

NOTE: Cattle from nonquarantined areas which are not affected with scabies or which just prior to movement were not affected with or exposed to scabies may be moved interstate without restrictions under this part. Accordingly, cattle from nonquarantined areas which had been treated with ivermectin more than 14 days before movement interstate may be moved interstate without restriction under this part unless following treatment they become affected with scabies or just prior to movement become affected with or exposed to scabies.

(b) Cattle may be moved interstate from a quarantined area after being treated with ivermectin under the supervision of an APHIS inspector or State inspector in accordance with the directions on the label of the drug if the following conditions are met:

(1) Such cattle are moved interstate within 21 days following treatment with ivermectin; and

withdrawal time in milk has not been established, do not use in female dairy cattle of breeding age. Federal law restricts this drug to use by or on the order of a licensed veterinarian."

(2) Such cattle are kept physically separated for 14 days following treatment from all cattle not part of the group treated together with ivermectin (regardless of whether the cattle are moved interstate before the end of the 14 day period); and, if such cattle are moved within the 15- to 21-day period following treatment, they remain kept physically separated from all cattle not a part of the group treated together with ivermectin until after they are moved interstate; and

(3) Such cattle are accompanied at the time of interstate movement by a certificate issued and signed by an APHIS inspector or State inspector identifying the group of cattle treated with ivermectin and stating the date on which the cattle were treated with ivermectin; and

(4) If such cattle are moved interstate before the end of the 14 day period following treatment, at the time of interstate movement the means of conveyance carrying them is placarded and the billing marked in accordance with § 73.6.

[49 FR 10530, Mar. 20, 1984 and 49 FR 33120, Aug. 21, 1984; 56 FR 52463, Oct. 21, 1991; 66 FR 21062, Apr. 27, 2001]

PART 74—PROHIBITION OF INTERSTATE MOVEMENT OF LAND TORTOISES

AUTHORITY: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

§ 74.1 General prohibition.

The interstate movement of leopard tortoise (*Geochelone pardalis*), African spurred tortoise (*Geochelone sulcata*), and Bell's hingeback tortoise (*Kinixys belliana*) is prohibited except when tortoises are accompanied by either a health certificate or a certificate of veterinary inspection. The health certificate or certificate of veterinary inspection must be signed by an accredited veterinarian within 30 days prior to the interstate movement and must state that the tortoises have been examined by that veterinarian and found free of ticks.

[66 FR 37128, July 17, 2001]

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

DOURINE IN HORSES AND ASSES

Sec.

75.1–75.3 [Reserved]

EQUINE INFECTIOUS ANEMIA (SWAMP FEVER)

75.4 Interstate movement of equine infectious anemia reactors and approval of laboratories, diagnostic facilities, and research facilities.

CONTAGIOUS EQUINE METRITIS (CEM)

75.5–75.10 [Reserved]

AUTHORITY: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 28 FR 5950, June 13, 1963, unless otherwise noted.

DOURINE IN HORSES AND ASSES

§§ 75.1–75.3 [Reserved]

EQUINE INFECTIOUS ANEMIA (SWAMP FEVER)

§ 75.4 Interstate movement of equine infectious anemia reactors and approval of laboratories, diagnostic facilities, and research facilities.

(a) *Definitions.* For the purpose of this section, the following terms have the meanings set forth in this paragraph.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

Animals. Cattle, sheep, goats, other ruminants, swine, horses, asses, mules, zebras, dogs, and poultry.

APHIS representative. An individual employed by APHIS who is authorized to perform the functions involved.

Approved stockyard. A stockyard, live-stock market, or other premises, under state or federal veterinary supervision where horses or other equines are assembled for sale purposes, and which has been approved by the Administrator under § 71.20 of this chapter.

Certificate. An official document issued by a State representative, APHIS representative, or an accredited veterinarian at the point of origin of the interstate movement on which are listed: (1) The description, including age, breed, color, sex, and distinctive markings when present (such as brands, tattoos, scars or blemishes), of each reactor to be moved; (2) the number of reactors covered by the document; (3) the purpose for which the reactors are to be moved; (4) the points of origin and destination; (5) consignor; and (6) the consignee; and which states that each reactor identified on the certificate meets the requirements of § 75.4(b).

Interstate. From any State into or through any other State.

Official seal. A serially numbered metal or plastic strip, or a serially numbered button, consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and which cannot be reused if opened. It is applied by an APHIS representative or State representative.

Official test. Any test for the laboratory diagnosis of equine infectious anemia that utilizes a diagnostic product that is: (1) Produced under license from the Secretary of Agriculture, and found to be efficacious for that diagnosis, under the Virus-Serum-Toxin Act of March 4, 1913, and subsequent amendments (21 U.S.C. 151 *et seq.*); and (2) conducted in a laboratory approved by the Administrator.

Officially identified. The permanent identification of a reactor using the National Uniform Tag code number assigned by the United States Department of Agriculture to the State in which the reactor was tested, followed by the letter “A”,¹ which markings

¹Information as to the National Uniform Tag code number system can be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National

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shall be permanently applied to the reactor by an APHIS representative, State representative or accredited veterinarian who shall use for the purpose a hot iron or chemical brand, freezemarking or a lip tattoo. If hot iron or chemical branding or freezemarking is used, the markings shall be not less than two inches high and shall be applied to the left shoulder or left side of the neck of the reactor. If a lip tattoo is used, each character of the tattoo shall be not less than one inch high and three-fourths of an inch wide and shall be applied to the inside surface of the upper lip of the reactor.

Operator. The individual responsible for the day-to-day operations of the specifically approved stockyard.

Permit. An official document (VS Form 1-27 or a State form which contains the same information, but not a "permit for entry") issued by an APHIS representative, State representative, or accredited veterinarian which lists the owner's name and address, points of origin and destination, number of animals covered, purpose of the movement, and one of the following: The individual animal registered breed association registration tattoo, individual animal registered breed association registration number, or similar individual identification, including name, age, sex, breed, color, and markings.

Reactor. Any horse, ass, mule, pony or zebra which is subjected to an official test and found positive.

State. Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other territory or possession of the United States.

State animal health official. The individual employed by a State who is responsible for livestock and poultry disease control and eradication programs.

State representative. An individual employed in animal health activities of a State or a State's political subdivision, who is authorized by that State to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

Veterinarian in Charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the animal health activities of APHIS in the State concerned.

(b) *Interstate movement.* No reactor may be moved interstate unless the reactor is officially identified, is accompanied by a certificate, and meets the conditions of either paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this section: *Provided,* That official identification is not necessary if the reactor is moved directly to slaughter under a permit and in a conveyance sealed with an official seal:

(1) The reactor is moved interstate for immediate slaughter, either to a Federally inspected slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or to a State-inspected slaughtering establishment that has inspection by a State representative at time of slaughter; or

(2) The reactor is moved interstate to a diagnostic or research facility after the individual issuing the certificate has consulted with the State animal health official in the State of destination and has determined that the reactor to be moved interstate will be maintained in isolation sufficient to prevent the transmission of equine infectious anemia to other horses, asses, ponies, mules, or zebras, and will remain quarantined under State authority at the diagnostic or research facility until natural death, slaughter, or until disposed of by euthanasia; or

(3) The reactor is moved interstate to its home farm after the individual issuing the certificate has consulted with the State animal health official in the State of destination and has determined that the reactor to be moved interstate will be maintained in isolation sufficient to prevent the transmission of equine infectious anemia to other horses, asses, ponies, mules, or zebras, and will remain quarantined under State authority on the reactor's home farm until natural death, slaughter, or until disposed of by euthanasia; and

(4) The reactor is moved interstate through no more than one approved stockyard for sale for immediate slaughter, and is moved within five

days of its arrival at the approved stockyard directly to:

(i) Slaughter at a federally inspected slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), or,

(ii) Slaughter at a state-inspected slaughtering establishment that has inspection by a state representative at the time of slaughter, or,

(iii) The home farm of the reactor in accordance with paragraph (b)(3) of this section.

(c) *Approval of Laboratories, and Diagnostic or Research Facilities.* (1) The Administrator will approve laboratories to conduct the official test only after consulting with the State animal health official in the State in which the laboratory is located and after determining that the laboratory:

(i) Has technical personnel assigned to conduct the official test who have received training prescribed by the National Veterinary Services Laboratories;

(ii) Uses United States Department of Agriculture licensed antigen;

(iii) Follows standard test protocol prescribed by the National Veterinary Services Laboratories;

(iv) Meets check test proficiency requirements prescribed by the National Veterinary Services Laboratories; and

(v) Reports all official test results to the State animal health official and the Veterinarian in Charge.²

(2) The Administrator will approve diagnostic or research facilities to which reactors may be moved interstate under paragraph (b)(2) of this section, after a determination by the Administrator that the facility has facilities and employs procedures which are adequate to prevent the transmission of equine infectious anemia from reactors to other equine animals.³

²Training requirements, standard test protocols, and check test proficiency requirements prescribed by the National Veterinary Services Laboratories, and the names and addresses of approved laboratories can be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs, 4700 River Road Unit 43, Riverdale, Maryland 20737-1231.

³Facilities and procedures which are adequate to prevent the transmission of equine

(d) *Denial and withdrawal of approval of laboratories and diagnostic or research facilities.* The Administrator may deny or withdraw approval of any laboratory to conduct the official test, or of any diagnostic or research facility to receive reactors moved interstate, upon a determination that the laboratory or diagnostic or research facility does not meet the criteria for approval under paragraph (c) of this section.

(1) In the case of a denial, the operator of the laboratory or facility will be informed of the reasons for denial and may appeal the decision in writing to the Administrator within 10 days after receiving notification of the denial. The appeal must include all of the facts and reasons upon which the person relies to show that the laboratory or facility was wrongfully denied approval to conduct the official test or receive reactors moved interstate. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(2) In the case of withdrawal, before such action is taken, the operator of the laboratory or facility will be informed of the reasons for the proposed withdrawal. The operator of the laboratory or facility may appeal the proposed withdrawal in writing to the Administrator within 10 days after being informed of the reasons for the proposed withdrawal. The appeal must include all of the facts and reasons upon which the person relies to show that the reasons for the proposed withdrawal are incorrect or do not support the withdrawal of the approval of the laboratory or facility to conduct the official test or receive reactors moved interstate. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit,

infectious anemia, and the names and addresses of approved diagnostic or research facilities, can be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs, 4700 River Road Unit 43, Riverdale, Maryland 20737-1231.

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stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, the withdrawal shall become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the laboratory or facility. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. The withdrawal shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

(3) Approval for a laboratory to conduct the official test will be automatically withdrawn by the Administrator when the operator of the approved laboratory notifies the National Veterinary Services Laboratories in Ames, Iowa, in writing, that the laboratory no longer conducts the official test.

(4) Approval for a diagnostic or research facility to receive reactors moved interstate will be automatically withdrawn by the Administrator when the operator of the approved diagnostic or research facility notifies the Administrator, in writing, that the diagnostic or research facility no longer receives reactors moved interstate.

(Approved by the Office of Management and Budget under control number 0579–0051)

[51 FR 12597, Apr. 14, 1986, as amended at 51 FR 30327, Aug. 26, 1986; 55 FR 13506, 13507, Apr. 11, 1990; 57 FR 2440, Jan. 22, 1992; 57 FR 57337, Dec. 4, 1992; 59 FR 67133, Dec. 29, 1994; 59 FR 67613, Dec. 30, 1994; 60 FR 14619, Mar. 20, 1995; 62 FR 27936, May 22, 1997; 66 FR 21062, Apr. 27, 2001]

CONTAGIOUS EQUINE METRITIS (CEM)

§§ 75.5–75.10 [Reserved]

PART 76 [RESERVED]

9 CFR Ch. I (1–1–07 Edition)

PART 77—TUBERCULOSIS

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AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 65 FR 63517, Oct. 23, 2000, unless otherwise noted.

Subpart A—General Provisions

§ 77.1 Material incorporated by reference.

Uniform Methods and Rules—Bovine Tuberculosis Eradication. The Uniform Methods and Rules—Bovine Tuberculosis Eradication (January 22, 1999, edition) has been approved for incorporation by reference into the Code of Federal Regulations by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(a) The procedures specified in the Uniform Methods and Rules—Bovine Tuberculosis Eradication (January 22, 1999, edition) must be followed for the interstate movement of certain animals regulated under this part.

(b) *Availability.* Copies of the Uniform Methods and Rules—Bovine Tuberculosis Eradication:

(1) Are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html;

(2) Are available for inspection at the APHIS reading room, room 1141, USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC; or

(3) May be obtained from the National Animal Health Programs, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231.

[65 FR 63517, Oct. 23, 2000, as amended at 69 FR 18803, Apr. 9, 2004]

§ 77.2 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of subchapter J to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Affected herd. A herd of livestock in which there is strong and substantial evidence that *Mycobacterium bovis* exists. This evidence should include, but is not limited to, any of the following: Histopathology, polymerase chain reaction (PCR) assay, bacterial isolation or detection, testing data, or epidemiologic evidence such as contact with known sources of infection.

Animal. All species of animals except man, birds, or reptiles.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States. The AIN contains 15 digits, with the first 3 being the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Area veterinarian in charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

Certificate. An official document issued by an APHIS representative, a State representative, or an accredited veterinarian at the point of origin of a shipment of livestock to be moved under this part, which shows the identification tag, tattoo, or registration number or similar identification of

each animal to be moved; the number, breed, sex, and approximate age of the animals covered by the document; the purpose for which the animals are to be moved; the date and place of issuance; the points of origin and destination; the consignor and the consignee; and which states that the animal or animals identified on the certificate meet the requirements of this part.

Cooperating State and Federal animal health officials. The State and Federal animal health officials responsible for overseeing and implementing the National Cooperative State/Federal Bovine Tuberculosis Eradication Program.

Depopulate. To destroy all livestock in a herd by slaughter or by death otherwise.

Designated tuberculosis epidemiologist (DTE). A State or Federal epidemiologist designated by the Administrator to make decisions concerning the use and interpretation of diagnostic tests for tuberculosis and the management of tuberculosis affected herds. A DTE has the responsibility to determine the scope of epidemiologic investigations, determine the status of animals and herds, assist in the development of individual herd plans, and coordinate disease surveillance and eradication programs within the geographic area of the DTE's responsibility.

Epidemiologic investigation. An investigation that is conducted by a State in conjunction with APHIS representatives, in which an official test for tuberculosis is conducted on all livestock in any tuberculosis-affected herd in a State or zone, all livestock in any herd into which livestock from the affected herd have been moved, all potential tuberculosis source herds, and all livestock herds and animals that are likely to have been exposed to the affected herd.

Herd. Except for livestock assembled at feedlots, any group of livestock maintained for at least 4 months on common ground for any purpose, or two or more groups of livestock under common ownership or supervision, geographically separated but that have an interchange or movement of livestock without regard to health status, as determined by the Administrator.

Interstate. From one State into or through any other State.

Livestock. Cattle, bison, cervids, swine, dairy goats, and other hoofed animals (such as llamas, alpacas, and antelope) raised or maintained in captivity for the production of meat and other products, for sport, or for exhibition, as well as previously free-ranging cervids that are captured, identified, and moved interstate.

Moved. Shipped, transported, or otherwise moved, or delivered or received for movement.

Moved directly. Moved without stopping or unloading at livestock assembly points of any type. Livestock being moved directly may be unloaded from the means of conveyance while en route only with permission of the State animal health official and only if the animals are isolated so that they cannot mingle with any livestock other than those with which they are being shipped.

Official eartag. An identification tag providing unique identification for individual animals. An official eartag must bear the U.S. shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users. The official eartag must be tamper-resistant and have a high retention rate in the animal. Official eartags must adhere to one of the following numbering systems:

(1) National Uniform Eartagging System.

(2) Animal identification number (AIN).

(3) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in this section, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.

(4) Any other numbering system approved by the Administrator for the identification of animals in commerce.

Official seal. A seal issued by a State or APHIS representative, consisting of a serially numbered, metal or plastic strip, with a self-locking device on one end and a slot on the other end, which

forms a loop when the ends are engaged and that cannot be reused if opened, or a serially numbered, self-locking button that can be used for this purpose.

Officially identified. Identified by means of an official eartag or by means of an individual tattoo or hot brand that provides unique identification for each animal.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

Premises identification number (PIN). A unique number assigned by a State or Federal animal health authority to a premises that is, in the judgment of the State or Federal animal health authority, a geographically distinct location from other livestock production units. The premises identification number is associated with an address or legal land description and may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. The premises identification number may consist of:

(1) The State's two-letter postal abbreviation followed by the premises' assigned number; or

(2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

Premises of origin identification. (1) An APHIS-approved eartag or tattoo bearing a premises identification number (PIN), as defined in this section;

(2) A name assigned by a State or Federal animal health authority to the premises on which the animals originated that, in the judgment of that State or Federal animal health authority, is a geographically distinct location from other livestock production units; or

(3) A brand registered with an official brand registry.

State. Any State, the District of Columbia, Puerto Rico, or any territory of the United States.

State animal health official. The State official responsible for livestock and poultry disease control and eradication programs.

State representative. A veterinarian or other person employed in livestock sanitary work of a State or a political subdivision of a State and who is authorized by such State or political subdivision of a State to perform the function involved under a memorandum of understanding with APHIS.

Transportation document. Any document accompanying the interstate movement of livestock, such as an owner's statement, manifest, switch order, or vehicle record, on which is stated the point from which the animals are moved interstate, the destination of the animals, the number of animals covered by the document, and the name and address of the owner or shipper.

Tuberculosis. The contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. (Also referred to as bovine tuberculosis.)

Zone. A defined geographic land area identifiable by geological, political, manmade, or surveyed boundaries, with mechanisms of disease spread, epidemiological characteristics, and the ability to control the movement of animals across the boundaries of the zone taken into account.

[65 FR 63517, Oct. 23, 2000, as amended at 66 FR 7592, Feb. 20, 2002; 69 FR 64649, Nov. 8, 2004; 70 FR 61026, Oct. 20, 2005]

§ 77.3 Tuberculosis classifications of States and zones.

The Administrator shall classify each State for tuberculosis in accordance with this part. A zone comprising less than an entire State will be given a particular classification upon request of the State only if the Administrator determines that:

(a) The State meets the requirements of this part for establishment of zones;

(b) The State has adopted and is enforcing regulations that impose restrictions on the intrastate movement of cattle, bison, and captive cervids that are substantially the same as those in place under this part for the interstate movement of cattle, bison, and captive cervids; and

(c) The designation of part of a State as a zone will otherwise be adequate to prevent the interstate spread of tuberculosis.

§ 77.4 Application for and retention of zones.

(a) A State animal health official may request at any time that the Administrator designate part of a State as having a different tuberculosis classification under this part than the rest of the State. The requested zones must be delineated by the State animal health authorities, subject to approval by the Administrator. The request from the State must demonstrate that the State complies with the following requirements:

(1) The State must have the legal and financial resources to implement and enforce a tuberculosis eradication program and must have in place an infrastructure, laws, and regulations that require and ensure that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife;

(2) The State in which the intended zones are located must maintain, in each intended zone, clinical and epidemiologic surveillance of animal species at risk of tuberculosis at a rate that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence. The designated tuberculosis epidemiologist must review reports of all testing for each zone within the State within 30 days of the testing; and

(3) The State must enter into a memorandum of understanding with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request.

(b) Retention of APHIS recognition of a zone is subject to annual review by the Administrator. To retain recognition of a zone, a State must continue to comply with the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this section, as well as the requirements for maintaining or improving the tuberculosis risk classification of each zone in the State, and must retain for at least 2 years all certificates required under this part for the movement of cattle, bison, and captive cervids.

(Approved by the Office of Management and Budget under control number 0579–0146)

Subpart B—Cattle and Bison

§ 77.5 Definitions.

As used in subpart B, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accreditation preparatory State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of cattle and bison in the State or zone.

Accredited-free State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication,” has zero percent prevalence of affected cattle and bison herds, and has had no findings of tuberculosis in any cattle or bison herds in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis in herds is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

Accredited herd. To establish or maintain accredited herd status, the herd owner must comply with all of the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” regarding accredited herds. All cattle and bison in a herd must be free from tuberculosis.

Approved feedlot. A confined area approved jointly by the State animal health official and the Administrator for feeding cattle and bison for slaughter, with no provisions for pasturing or grazing.

Approved slaughtering establishment. A slaughtering establishment operating

under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State-inspected slaughtering establishment that has inspection by a State inspector at the time of slaughter.

Cattle and bison not known to be affected. All cattle and bison except those originating from tuberculosis affected herds or from herds containing tuberculosis suspect cattle or bison.

Department. The U.S. Department of Agriculture (USDA).

Exposed cattle and bison. Cattle and bison, except reactor cattle and bison, that are part of an affected herd.

Feedlot. A facility for congregating finished fed cattle prior to their being shipped to slaughter.

Finished fed cattle. Cattle fattened on a ration of feed concentrates to reach a slaughter condition equivalent to that which would be attained on full feed with a high concentrate grain ration for 90 days.

Modified accredited advanced State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for each of the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Modified accredited State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of cattle and bison in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds

for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Negative cattle and bison. Cattle and bison that are classified negative for tuberculosis in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," based on the results of an official tuberculin test.

Nonaccredited State or zone. A State or zone that is or is part of a State that does not meet the standards of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of cattle and bison in the State or zone.

Official tuberculin test. Any test for tuberculosis conducted on cattle or bison in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication."

Permit. An official document issued for movement of cattle or bison under this part by an APHIS representative, State representative, or an accredited veterinarian at the point of origin of a shipment of cattle or bison to be moved directly to slaughter, that shows the tuberculosis status of each animal (reactor, suspect, or exposed), the eartag number of each animal and the name of the owner of such animal, the establishment to which the animals are to be moved, the purpose for which the animals are to be moved, and that they are eligible for such movement under the applicable provisions of §§ 77.17 and 77.18.

Quarantined feedlot. A confined area under the direct supervision and control of a State livestock official who shall establish procedures for the accounting of all livestock entering or leaving the area. The quarantined feedlot shall be maintained for finish feeding of livestock in drylot with no provision for pasturing and grazing. All livestock leaving such feedlot must only move directly to slaughter in accordance with established procedures for handling quarantined livestock.

Reactor cattle and bison. Cattle and bison that are classified as reactors for tuberculosis in accordance with the

“Uniform Methods and Rules—Bovine Tuberculosis Eradication.”

Suspect cattle and bison. Cattle and bison that are classified as suspects for tuberculosis in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.”

Uniform Methods and Rules—Bovine Tuberculosis Eradication. Uniform methods and rules for eradicating bovine tuberculosis in the United States, approved by APHIS on January 22, 1999, which is incorporated by reference at § 77.1.

Whole herd test. An official tuberculin test of all cattle and bison in a herd that are 12 months of age or older, and of all cattle and bison in the herd that are less than 12 months of age and were not born into the herd, except those cattle and bison that are less than 12 months of age and were born in and originated from an accredited herd.

Zero percent prevalence. No finding of tuberculosis in any cattle, bison, or goat herd in a State or zone.

[65 FR 63517, Oct. 23, 2000, as amended at 70 FR 61026, Oct. 20, 2005]

§ 77.6 Applicability of this subpart.

All references in this subpart to the tuberculosis status of States and zones pertain to such status for cattle and bison only.

§ 77.7 Accredited-free States or zones.

(a) The following are accredited-free States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, the Virgin Islands of the United States, Washington, West Virginia, Wisconsin, and Wyoming.

(b) The following are accredited-free zones:

(1) A zone in Michigan known as the Upper Peninsula that comprises Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw,

Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties.

(2) All of the State of New Mexico except for the zone that comprises those portions of Curry and Roosevelt Counties, NM, described in § 77.9(b)(2).

(c) If an affected herd is detected in a State or zone classified as accredited-free, and the herd is depopulated and an epidemiologic investigation is completed within 90 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. If two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone will be removed from the list of accredited-free States or zones and will be reclassified as modified accredited advanced.

(d) If any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” (January 22, 1999, edition), which is incorporated by reference at § 77.1, to those other livestock in the same manner as to cattle and bison. Failure to do so will result in reclassification of the State or zone as modified accredited advanced.

(e) If tuberculosis is diagnosed within an accredited-free State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in animals held for exhibition and in livestock and wildlife; the prevention of the spread of the disease to other animals held for exhibition and to livestock and wildlife; increased surveillance for tuberculosis in animals held for exhibition and wildlife; eradication of tuberculosis from individual herds; a timeline for tuberculosis

eradication; and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will lose its accredited-free status and will be reclassified as modified accredited advanced.

(f) Accredited-free State or zone status must be renewed annually. To qualify for renewal of accredited-free State or zone status, a State must submit an annual report to APHIS certifying that the State or zone within the State complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(Approved by the Office of Management and Budget under control number 0579-0146)

[65 FR 63517, Oct. 23, 2000, as amended at 65 FR 70286, Nov. 22, 2000; 67 FR 38844, June 6, 2002; 68 FR 20336, Apr. 25, 2003; 68 FR 43621, July 24, 2003; 70 FR 19878, Apr. 15, 2005; 70 FR 58293, Oct. 6, 2005; 71 FR 4810, Jan. 30, 2006; 71 FR 58253, Oct. 3, 2006]

§ 77.8 Interstate movement from accredited-free States and zones.

Cattle or bison that originate in an accredited-free State or zone may be moved interstate without restriction.

§ 77.9 Modified accredited advanced States or zones.

(a) The following are modified accredited advanced States: Minnesota.

(b) The following are modified accredited advanced zones:

(1) All of the State of Michigan except for the zones that comprise those counties or portions of counties in Michigan described in § 77.7(b)(1) and § 77.11(b).

(2) The zone in New Mexico that comprises those portions of Curry and Roosevelt Counties, NM, described as follows:

(i) *Curry County* (A) In T. 1 N., R. 34 E., of the New Mexico Prime Meridian (NMPM): S½ sec. 1; S½ sec. 2; SW¼ sec. 3; SE¼ sec. 4; W½ sec. 5; W½SE¼ sec. 8; S½NE¼ sec. 9; secs. 10 through 17; secs. 20 through 29; secs. 32 through 36.

(B) In T. 1 N., R. 35 E., of the NMPM: S½ sec. 6; secs. 7 through 9; S½ sec. 10; secs. 15 through 22; W½ sec. 23; W½ sec. 26; secs. 27 through 35.

(ii) *Roosevelt County*. (A) In T. 1 S., R. 34 E., of the NMPM: Secs. 1 through 5; secs. 9 through 14; secs. 23 through 26; secs. 35 through 36.

(B) In T. 1 S., R. 35 E., of the NMPM: Secs. 2 through 10; secs. 15 through 22; SW¼ sec. 23; W½SE¼ sec. 26; secs. 27 through 35.

(C) In T. 2 S., R. 34 E., of the NMPM: Secs. 1 and 2; secs. 11 through 13; N½SE¼ sec. 14; N½SW¼ sec. 23; N½SE¼ sec. 24.

(D) In T. 2 S., R. 35 E., of the NMPM: Secs. 2 through 11; secs. 14 through 21; N½SW¼ sec. 22; N½NW¼ sec. 23; W½ sec. 30.

(c) If any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (January 22, 1999), which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Failure to do so will result in the removal of the State or zone from the list of modified accredited advanced States or zones and its being reclassified as modified accredited.

(d) If tuberculosis is diagnosed within a modified accredited advanced State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in animals held for exhibition and in livestock and wildlife; the prevention of the spread of the disease to other animals held for exhibition and to livestock and wildlife; increased surveillance for tuberculosis in animals held for exhibition and wildlife; eradication of tuberculosis from individual herds; a timeline for tuberculosis eradication; and performance standards by which to

measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as modified accredited.

(e) Modified accredited advanced State or zone status must be renewed annually. To qualify for renewal of a modified accredited advanced State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.” The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for accredited-free status, a modified accredited advanced State or zone must demonstrate to the Administrator that it complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication,” has zero percent prevalence of affected cattle and bison herds, and has had no findings of tuberculosis in any cattle or bison in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0146)

[65 FR 63517, Oct. 23, 2000, as amended at 65 FR 70286, Nov. 22, 2000; 67 FR 38844, June 6, 2002; 68 FR 20336, Apr. 25, 2003; 68 FR 43621, July 24, 2003; 69 FR 20808, Apr. 19, 2004; 70 FR 42261, July 22, 2005; 70 FR 47078, Aug. 12, 2005; 70 FR 58293, Oct. 6, 2005; 71 FR 4810, Jan. 30, 2006; 71 FR 58253, Oct. 3, 2006]

§ 77.10 Interstate movement from modified accredited advanced States and zones.

Cattle or bison that originate in a modified accredited advanced State or

zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle or bison are moved directly to slaughter at an approved slaughtering establishment.

(b) The cattle or bison are sexually intact heifers moved to an approved feedlot, or are steers or spayed heifers; and are either officially identified or identified by premises of origin identification.

(c) The cattle or bison are from an accredited herd and are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(d) The cattle or bison are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by a certificate stating that they were negative to an official tuberculin test conducted within 60 days prior to the date of movement.

(Approved by the Office of Management and Budget under control numbers 0579–0146, 0579–0220, and 0579–0229)

[65 FR 63517, Oct. 23, 2000, as amended at 68 FR 20336, Apr. 25, 2003; 68 FR 43621, July 24, 2003]

§ 77.11 Modified accredited States or zones.

(a) The following are modified accredited States: None.

(b) The following are modified accredited zones: A zone in Michigan that comprises Alcona, Alpena, Antrim, Charlevoix, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest.

(c) If any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” (January 22, 1999, edition), which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock

in the same manner as to cattle and bison. Failure to do so will result in the removal of the State or zone from the list of modified accredited States or zones and its being reclassified as accreditation preparatory.

(d) If tuberculosis is diagnosed within a modified accredited State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in animals held for exhibition and in livestock and wildlife; the prevention of the spread of the disease to other animals held for exhibition and to livestock and wildlife; increased surveillance for tuberculosis in animals held for exhibition and wildlife; eradication of tuberculosis from individual herds; a timeline for tuberculosis eradication; and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as accreditation preparatory.

(e) Modified accredited State or zone status must be renewed annually. To qualify for renewal of a modified accredited State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited advanced status, a modified accredited State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for the most recent 2 years. *Except that:* The

Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

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[65 FR 63517, Oct. 23, 2000; 65 FR 64479, Oct. 27, 2000, as amended at 69 FR 20809, Apr. 19, 2004]

§ 77.12 Interstate movement from modified accredited States and zones.

Cattle or bison that originate in a modified accredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle or bison are moved directly to slaughter at an approved slaughtering establishment.

(b) The cattle or bison are sexually intact heifers moved to an approved feedlot, or are steers or spayed heifers; are either officially identified or identified by premises of origin identification; and are accompanied by a certificate stating that they were classified negative to an official tuberculin test conducted within 60 days prior to the date of movement.

(c) The cattle or bison are from an accredited herd and are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(d) The cattle or bison are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by a certificate stating that the herd from which they originated was negative to a whole herd test conducted within 1 year prior to the date of movement and that the individual animals to be moved were negative to an additional official tuberculin test conducted within 60 days prior to the date of movement, except that the additional test is not required if the animals are moved interstate

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within 60 days following the whole herd test.

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[65 FR 63517, Oct. 23, 2000, as amended at 70 FR 29582, May 24, 2005]

§ 77.13 Accreditation preparatory States or zones.

(a) The following are accreditation preparatory States: None.

(b) The following are accreditation preparatory zones: None.

(c) If any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” (January 22, 1999 edition), which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Failure to do so will result in the removal of the State or zone from the list of accreditation preparatory States or zones and its being reclassified as nonaccredited.

(d) If tuberculosis is diagnosed within an accreditation preparatory State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in animals held for exhibition and in livestock and wildlife; the prevention of the spread of the disease to other animals held for exhibition and to livestock and wildlife; increased surveillance for tuberculosis in animals held for exhibition and wildlife; eradication of tuberculosis from individual herds; a timeline for tuberculosis eradication; and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the

State or zone will be reclassified as nonaccredited.

(e) Accreditation preparatory State or zone status must be renewed annually. To qualify for renewal of accreditation preparatory State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.” The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited status, an accreditation preparatory State or zone must demonstrate to the Administrator that it complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and that tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of cattle and bison in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

(Approved by the Office of Management and Budget under control number 0579–0146)

§ 77.14 Interstate movement from accreditation preparatory States and zones.

Cattle or bison that originate in an accreditation preparatory State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle or bison are moved directly to slaughter at an approved slaughtering establishment.

(b) The cattle or bison are sexually intact heifers moved to an approved feedlot, or are steers or spayed heifers; are officially identified or identified by a premises of origin identification; and are accompanied by a certificate stating that the herd from which they originated was negative to a whole herd test conducted within 1 year prior to the date of movement and that the individual animals to be moved were

negative to an additional official tuberculin test conducted within 60 days prior to the date of movement, except that the additional test is not required if the animals are moved interstate within 6 months following the whole herd test.

(c) The cattle or bison are from an accredited herd; are officially identified; and are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement and that the animals to be moved were negative to an official tuberculin test conducted within 60 days prior to the date of movement.

(d) The cattle or bison are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by a certificate stating that the herd from which they originated was negative to a whole herd test conducted within 1 year prior to the date of movement and that the individual animals to be moved were negative to two additional official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement, except that the second additional test is not required if the animals are moved interstate within 60 days following the whole herd test.

(Approved by the Office of Management and Budget under control number 0579-0146)

[65 FR 63517, Oct. 23, 2000, as amended at 70 FR 29582, May 24, 2005]

§ 77.15 Nonaccredited States or zones.

(a) The following are nonaccredited States: None.

(b) The following are nonaccredited zones: None.

(c) To qualify for accreditation preparatory status, a nonaccredited State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis is prevalent in less than 0.5 percent of the total number of herds of cattle and bison in the State or zone.

§ 77.16 Interstate movement from non-accredited States and zones.

Cattle or bison that originate in a nonaccredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only if the cattle or bison are accompanied by VS Form 1-27 and are moved interstate for slaughter in an officially sealed means of conveyance directly to an approved slaughtering establishment.

§ 77.17 Interstate movement of cattle and bison that are exposed, reactors, or suspects, or from herds containing suspects.

(a) *Reactor cattle and bison.* Cattle or bison that have been classified as reactor cattle or bison may be moved interstate only if they are moved directly to slaughter at an approved slaughtering establishment and only in accordance with the following conditions:

(1) Reactor cattle and bison must be individually identified by attaching to the left ear an approved metal eartag bearing a serial number and the inscription "U.S. Reactor," or a similar State reactor tag, and must be:

(i) Branded with the letter "T," at least 5 by 5 centimeters (2 by 2 inches) in size, high on the left hip near the tailhead; or

(ii) Permanently identified with the letters "TB" tattooed legibly in the left ear and sprayed with yellow paint on the left ear and either accompanied directly to slaughter by an APHIS or State representative or moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(2) The reactor cattle or bison must be accompanied by a permit; and

(3) The reactor cattle or bison may not be moved interstate in a means of conveyance containing any animals susceptible to tuberculosis unless all of the animals are being moved directly to slaughter; and

(4) Any person who moves reactor cattle or bison interstate under this paragraph must plainly write or stamp upon the face of the transportation

document the words “Tuberculin Reactor” and the following statement: “This conveyance must be cleaned and disinfected in accordance with 9 CFR 77.17(a)(5).”; and

(5) Each means of conveyance in which reactor cattle or bison have been transported interstate under this paragraph must be cleaned and disinfected by the carrier, in accordance with the provisions of §§ 71.6, 71.7, and 71.10 of this subchapter, under the supervision of an APHIS representative or State representative or an accredited veterinarian or other person designated by the Administrator. If, at the point where the cattle or bison are unloaded, such supervision or proper cleaning and disinfecting facilities are not available, and permission is obtained from an APHIS representative or State representative, the empty means of conveyance may be moved to a location where such supervision and facilities are available for cleaning and disinfecting. Permission will be granted if such movement does not present a risk of disseminating tuberculosis.

(b) *Exposed cattle and bison.* Except for the movement of exposed cattle to a quarantined feedlot in accordance with § 50.16 of this chapter, exposed cattle or bison may be moved interstate only if they are moved directly to slaughter to an approved slaughtering establishment and only in accordance with the following conditions:

(1) Exposed cattle and bison must be individually identified by attaching to either ear an approved metal eartag bearing a serial number and must be:

(i) Branded with the letter “S,” at least 5 by 5 centimeters (2 by 2 inches) in size, high on the left hip near the tailhead; or

(ii) Accompanied directly to slaughter by an APHIS or State representative; or

(iii) Moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(2) The exposed cattle and bison must be moved in accordance with para-

graphs (a)(2), (a)(3), and (a)(5) of this section.

(c) *Suspect cattle and bison.* Suspect cattle or bison from herds in which no reactor cattle or bison have been disclosed on an official tuberculin test, as well as negative cattle or bison from such herds, may be moved interstate only if they are moved directly to slaughter to an approved slaughtering establishment.

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§ 77.18 Other movements.

The Administrator may, with the concurrence of the State animal health official of the State of destination, upon request in specific cases, allow the interstate movement of cattle or bison not otherwise provided for in this part that have not been classified as reactor cattle or bison and are not otherwise known to be affected with tuberculosis, under such conditions as the Administrator may prescribe in each specific case to prevent the spread of tuberculosis. The Administrator shall promptly notify the appropriate State animal health official of the State of destination of any such action.

§ 77.19 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering cattle or bison in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous or reactor livestock must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey, hold, or in any way come in contact with any livestock.

Subpart C—Captive Cervids**§ 77.20 Definitions.**

As used in subpart C, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accreditation preparatory State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of captive cervids in the State or zone.

Accredited herd. A herd of captive cervids that has tested negative to at least two consecutive official tuberculosis tests of all eligible captive cervids in accordance with § 77.33(f) and that meets the standards set forth in § 77.35. The tests must be conducted at 9–15 month intervals.

Accredited-free State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication,” has zero percent prevalence of affected captive cervid herds, and has had no findings of tuberculosis in any captive cervid herds in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis in herds is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

Captive cervid. All species of deer, elk, moose, and all other members of the family Cervidae raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition, including time such animals are moved interstate; or any wild cervid that is moved inter-

state, during the period of time from capture until release into the wild. A captive cervid that escapes will continue to be considered a captive cervid as long as it bears an official eartag or other identification approved by the Administrator as unique and traceable with which to trace the animal back to its herd of origin.

Comparative cervical tuberculin (CCT) test. The intradermal injection of biologically balanced USDA bovine PPD tuberculin and avian PPD tuberculin at separate sites in the mid-cervical area to determine the probable presence of bovine tuberculosis (*M. bovis*) by comparing the response of the two tuberculins at 72 hours (plus or minus 6 hours) following injection.

Designated accredited veterinarian. An accredited veterinarian who is trained and approved by cooperating State and Federal animal health officials to conduct the single cervical tuberculin (SCT) test on captive cervids.

Exposed captive cervid. Any captive cervid that has been exposed to tuberculosis by reason of associating with captive cervids, cattle, bison, or other livestock from which *M. bovis* has been isolated.

Modified accredited State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of captive cervids in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Modified accredited advanced State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of captive

cervids in the State or zone for the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Monitored herd. A herd on which identification records are maintained on captive cervids inspected for tuberculosis at an approved slaughtering establishment or an approved diagnostic laboratory and on captive cervids tested for tuberculosis in accordance with interstate movement requirements, and which meets the standards set forth in § 77.37.

Negative. Showing no response to the SCT test or the CCT test, or classified negative for tuberculosis by the testing veterinarian based upon history, supplemental tests, examination of the carcass, and histopathology and culture of selected tissues.

No gross lesions (NGL). Having no visible lesions indicative of bovine tuberculosis detected upon necropsy or slaughter inspection.

Nonaccredited State or zone. A State or zone that is or is part of a State or zone that does not meet the standards of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of captive cervids in the State or zone.

Official tuberculosis test. Any of the following tests for bovine tuberculosis in captive cervids, applied and reported in accordance with this part:

- (1) The single cervical tuberculin (SCT) test.
- (2) The comparative cervical tuberculin test (CCT) test.

Permit. An official document issued by a representative of APHIS, a State representative, or an accredited veterinarian that must accompany any reactor, suspect, or exposed captive cervid moved interstate.

Purified protein derivative (PPD). Protein extract from an *M. bovis* culture that is resuspended in solution at a

standard concentration of 1 mg protein per 1 mL of solution.

Qualified herd. A herd of captive cervids that has tested negative to at least one official tuberculosis test of all eligible captive cervids (see § 77.33(f)) within the past 12 months and that is not classified as an accredited herd.

Quarantine. Prohibition from interstate movement, except for slaughter or necropsy.

Reactor. Any captive cervid that shows a response to the SCT test or the CCT test and is classified a reactor by the testing veterinarian; or any suspect captive cervid that is classified a reactor upon slaughter inspection or necropsy after histopathology and/or culture of selected tissues by the USDA or State veterinarian performing or supervising the slaughter inspection or necropsy.

Regular-kill slaughter animal. An animal that is slaughtered for food or any reason other than because of a disease regulated under 9 CFR chapter I (such as tuberculosis, brucellosis, or any other livestock disease for which movement of animals is restricted under 9 CFR chapter I).

Single cervical tuberculin (SCT) test. The intradermal injection of 0.1 mL (5,000 tuberculin units) of USDA PPD bovis tuberculin in the mid-cervical area with a reading by visual observation and palpation at 72 hours (plus or minus 6 hours) following injection.

Suspect. Any captive cervid that is not negative to the SCT test or the CCT test and that is not classified as a reactor by the testing veterinarian.

Tuberculin. A product that is approved by and produced under USDA license for injection into cervids and other animals for the purpose of detecting bovine tuberculosis.

Tuberculous. Having lesions indicative of tuberculosis, infected with tuberculosis based on isolation of *M. bovis*, or being from a herd in which *M. bovis* has been isolated.

USDA. The United States Department of Agriculture.

Whole herd test. An official tuberculosis test of all captive cervids in a herd that are 12 months of age or older, and of all captive cervids in the herd that are less than 12 months of age and

were not born into the herd, except those captive cervids that are less than 12 months of age and were born in and originated from an accredited herd.

Zero percent prevalence. No finding of tuberculosis in any herd of captive cervids in a State or zone.

[65 FR 63517, Oct. 23, 2000, as amended at 70 FR 61026, Oct. 20, 2005; 71 FR 24805, Apr. 27, 2006]

§ 77.21 Applicability of this subpart.

All references in this subpart to the tuberculosis status of States and zones pertain to such status for captive cervids.

§ 77.22 Accredited-free States or zones.

(a) The following are accredited-free States: None.

(b) The following are accredited-free zones: None.

(c) If an affected herd is detected in a State or zone classified as accredited-free, and the herd is depopulated and a complete epidemiologic investigation is completed within 120 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. If two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone will be removed from the list of accredited-free States or zones and will be reclassified as modified accredited advanced.

(d) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (January 22, 1999 edition), which is incorporated by reference at § 77.1, to those other livestock in the same manner as to captive cervids. Failure to do so will result in reclassification of the State or zone as modified accredited advanced.

(e) If tuberculosis is diagnosed within an accredited-free State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuber-

culosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in animals held for exhibition and in livestock and wildlife; the prevention of the spread of the disease to other animals held for exhibition and to livestock and wildlife; increased surveillance for tuberculosis in animals held for exhibition and wildlife; eradication of tuberculosis from individual herds; a timeline for tuberculosis eradication; and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will lose its accredited-free status and will be reclassified as modified accredited advanced.

(f) Accredited-free State or zone status must be renewed annually. To qualify for renewal of accredited-free State or zone status, a State must submit an annual report to APHIS certifying that the State or zone within the State complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(Approved by the Office of Management and Budget under control number 0579-0146)

§ 77.23 Interstate movement from accredited-free States and zones.

Notwithstanding any other provisions of this part, captive cervids that originate in an accredited-free State or zone may be moved interstate without restriction.

§ 77.24 Modified accredited advanced States or zones.

(a) The following are modified accredited advanced States: None.

(b) The following are modified accredited advanced zones: None.

(c) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (January 22,

1999 edition), which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of modified accredited advanced States or zones and its being reclassified as modified accredited.

(d) If tuberculosis is diagnosed within a modified accredited advanced State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in animals held for exhibition and in livestock and wildlife; the prevention of the spread of the disease to other animals held for exhibition and to livestock and wildlife; increased surveillance for tuberculosis in animals held for exhibition and wildlife; eradication of tuberculosis from individual herds; a timeline for tuberculosis eradication; and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as modified accredited.

(e) Modified accredited advanced State or zone status must be renewed annually. To qualify for renewal of a modified accredited advanced State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with all the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” regarding modified accredited advanced States. The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for accredited-free status, a modified accredited advanced State or zone must demonstrate to the Administrator that it complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis

Eradication,” has zero percent prevalence of affected captive cervid herds, and has had no findings of tuberculosis in any captive cervids in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited-free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0146)

§ 77.25 Interstate movement from modified accredited advanced States and zones.

Captive cervids that originate in a modified accredited advanced State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The captive cervids are moved directly to slaughter at an approved slaughtering establishment.

(b) The captive cervids are from an accredited herd, qualified herd, or monitored herd; are officially identified; and are accompanied by a certificate stating that the herd completed the requirements for accredited herd, qualified herd, or monitored herd status within 24 months prior to the date of movement.

(c) The captive cervids are officially identified and are accompanied by a certificate stating that they were negative to an official tuberculin test conducted within 90 days prior to the date of movement.

(Approved by the Office of Management and Budget under control number 0579–0146)

§ 77.26 Modified accredited States or zones.

(a) States listed in paragraph (b) of this section must submit to APHIS¹ by October 23, 2001 data demonstrating that the State complies with the UMR or the State will be redesignated as nonaccredited. If a State does submit surveillance data by October 23, 2001 that meets the UMR standards, and that APHIS believes qualifies the State for a classification other than modified accredited, APHIS will initiate rule-making to change the State's classification.

(b) The following are modified accredited States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, the Virgin Islands of the United States, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

(c) The following are modified accredited zones: None.

(d) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (January 22, 1999, edition), which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of modified accredited States or zones and its being reclassified as accreditation preparatory.

(e) If tuberculosis is diagnosed within a modified accredited State or zone in

an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in animals held for exhibition and in livestock and wildlife; the prevention of the spread of the disease to other animals held for exhibition and to livestock and wildlife; increased surveillance for tuberculosis in animals held for exhibition and wildlife; eradication of tuberculosis from individual herds; a timeline for tuberculosis eradication; and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as accreditation preparatory.

(f) Modified accredited State or zone status must be renewed annually. To qualify for renewal of a modified accredited State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(g) To qualify for modified accredited advanced status, a modified accredited State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis has been prevalent in less than 0.01 percent of the total number of captive cervids in the State or zone for the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics,

¹Send the information to National Animal Health Programs, Veterinary Services, APHIS, 4700 River Road, Unit 42, Riverdale, Maryland 20737-1231.

§ 77.27

and tuberculosis control and eradication measures in the State or zone.

(Approved by the Office of Management and Budget under control number 0579-0146)

§ 77.27 Interstate movement from modified accredited States and zones.

Except for captive cervids from a qualified herd or monitored herd, as provided in §§ 77.36 and 77.37, respectively, captive cervids that originate in a modified accredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The captive cervids are moved directly to slaughter at an approved slaughtering establishment.

(b) The captive cervids are from an accredited herd and are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within 24 months prior to the date of movement.

(c) The captive cervids are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by a certificate stating that the herd from which they originated was negative to a whole herd test conducted within 1 year prior to the date of movement and that the individual animals to be moved were negative to an additional official tuberculin test conducted within 90 days prior to the date of movement, except that the additional test is not required if the animals are moved interstate within 6 months following the whole herd test.

(Approved by the Office of Management and Budget under control number 0579-0146)

§ 77.28 Accreditation preparatory States or zones.

(a) The following are accreditation preparatory States: None.

(b) The following are accreditation preparatory zones: None.

(c) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine

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Tuberculosis Eradication" (January 22, 1999, edition), which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of accreditation preparatory States or zones and its being reclassified as nonaccredited.

(d) If tuberculosis is diagnosed within an accreditation preparatory State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in animals held for exhibition and in livestock and wildlife; the prevention of the spread of the disease to other animals held for exhibition and to livestock and wildlife; increased surveillance for tuberculosis in animals held for exhibition and wildlife; eradication of tuberculosis from individual herds; a timeline for tuberculosis eradication; and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as nonaccredited.

(e) Accreditation preparatory State or zone status must be renewed annually. To qualify for renewal of accreditation preparatory State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited status, an accreditation preparatory State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis has

been prevalent in less than 0.1 percent of the total number of herds of captive cervids in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

(Approved by the Office of Management and Budget under control number 0579-0146)

§ 77.29 Interstate movement from accreditation preparatory States and zones.

Except for captive cervids from a qualified herd or monitored herd, as provided in §§ 77.36 and 77.37, respectively, captive cervids that originate in an accreditation preparatory State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The captive cervids are moved directly to slaughter at an approved slaughtering establishment.

(b) The captive cervids are from an accredited herd; are officially identified; and are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within 24 months prior to the date of movement and that the individual animals to be moved were negative to an official tuberculin test conducted within 90 days prior to the date of movement.

(c) The captive cervids are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by a certificate stating that the herd from which they originated was negative to a whole herd test conducted within 1 year prior to the date of movement and that the individual animals to be moved were negative to two additional official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement, except that the second additional test is not required if the ani-

mals are moved interstate within 6 months following the whole herd test.

(Approved by the Office of Management and Budget under control number 0579-0146)

§ 77.30 Nonaccredited States or zones.

(a) The following are nonaccredited States: None.

(b) The following are nonaccredited zones: None.

(c) To qualify for accreditation preparatory status, a nonaccredited State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis is prevalent in less than 0.5 percent of the total number of herds of captive cervids in the State or zone.

§ 77.31 Interstate movement from non-accredited States and zones.

Captive cervids that originate in a nonaccredited State or zone and that are not known to be infected with or exposed to tuberculosis may not be moved interstate only if they are accompanied by VS Form 1-27 and are moved interstate in an officially sealed means of conveyance directly to slaughter at an approved slaughtering establishment.

§ 77.32 General restrictions.

(a) Except for movement from accredited-free States and zones in accordance with § 77.23, movement from accredited herds in accordance with § 77.35, and movement to slaughter in accordance with §§ 77.25(a), 77.27(a), 77.29(a), and 77.31(d), no captive cervid may be moved interstate unless it has been tested using an official tuberculosis test, and it is moved in compliance with this part.

(b) No captive cervid with a response to any official tuberculosis test is eligible for interstate movement unless the captive cervid subsequently tests negative to a supplemental official tuberculosis test or is moved interstate directly to slaughter or necropsy in accordance with § 7.40.

(c) Except for captive cervids moving interstate under permit directly to slaughter or necropsy under § 77.40, each captive cervid or shipment of captive cervids to be moved interstate

must be accompanied by a certificate issued within 30 days of the movement by a State or Federal animal health official or an accredited veterinarian.

(d) Captive cervids in zoological parks that have been accredited by the American Zoo and Aquarium Association (AZA) are exempt from the regulations in this part when the captive cervids are moved directly interstate between AZA member facilities. Any captive cervids moved interstate that are not moved directly from an AZA member facility to another AZA member facility must be moved in accordance with the regulations in this subpart.

§ 77.33 Testing procedures for tuberculosis in captive cervids.

(a) *Approved testers.* Except as explained in paragraph (a)(1) of this section, official tuberculosis tests may only be given by a veterinarian employed by the State in which the test is administered or by a veterinarian employed by USDA.

(1) A designated accredited veterinarian may conduct the SCT test, except as provided in § 77.34(a)(2) and § 77.39(e) and (f).

(2) [Reserved]

(b) *Approved diagnostic laboratories.* (1) With one exception, histopathology and culture results for all tuberculosis diagnoses will be accepted only from the National Veterinary Services Laboratories (NVSL) in Ames, IA. The exception is that results will be accepted from a laboratory of the Food Safety and Inspection Service, USDA, for tissue examination of regular-kill slaughter animals in those cases where no submission is made to NVSL.

(2) [Reserved]

(c) *Identification.* Any captive cervid tested with an official tuberculosis test must bear official identification in the form of an official eartag, or another identification device or method approved by the Administrator as unique and traceable, at the time of the official tuberculosis test. Use of any identification device or method other than an official eartag must first be approved by the Administrator as unique and traceable. Written requests for approval must be sent to National Animal Health Programs, VS, APHIS, 4700

River Road Unit 43, Riverdale, MD 20737-1231.

(d) *Reporting of tests—(1) SCT and CCT tests.* For the SCT and CCT tests, the testing veterinarian must submit a report to cooperating State and Federal animal health officials of the State in which the captive cervid is tested. The report must include the following information for all SCT and CCT tests administered: The number of the individual eartag or other identification approved by the Administrator; the age, sex, and breed of each captive cervid tested; a record of all responses; the size of each response for the CCT test; and the test interpretation.

(2) [Reserved]

(e) *Test interpretation.* (1) Interpretation of an SCT test will be based upon the judgment of the testing veterinarian after observation and palpation of the injection site, in accordance with the classification requirements described in § 77.34(a).

(2) Interpretation of a CCT test will be in accordance with the classification requirements described in § 77.34(b).

(3) [Reserved]

(f) *Captive cervids eligible for testing.* Except as provided in § 77.35(a)(1) and § 77.36(a)(1), testing of herds for individual herd classification must include all captive cervids 1 year of age or over and any captive cervids other than natural additions (captive cervids born into the herd) under 1 year of age.

[65 FR 63517, Oct. 23, 2000, as amended at 71 FR 24806, Apr. 27, 2006]

§ 77.34 Official tuberculosis tests.

(a) *Single cervical tuberculin (SCT) test.*

(1) The SCT test is the primary test to be used in individual captive cervids and in herds of unknown tuberculous status. Each captive cervid that responds to the SCT test must be classified as a suspect until it is retested with the CCT test and is either found negative for tuberculosis or is classified as a reactor, unless, with the exception of a designated accredited veterinarian, the testing veterinarian determines that the captive cervid should be classified as a reactor based on its response to the SCT test. A designated accredited veterinarian must classify a responding captive cervid as a suspect,

unless the DTE determines, based on epidemiological evidence, that the captive cervid should be classified as a reactor.

(2) The SCT test is the primary test to be used in affected herds and in herds that have received captive cervids from an affected herd. When used with affected herds or in herds that have received captive cervids from an affected herd, the SCT test may only be administered by a veterinarian employed by the State in which the test is administered or employed by USDA. In affected herds or herds that have received captive cervids from an affected herd, each captive cervid that responds to the SCT test must be classified as a reactor, unless the DTE determines that the captive cervid should be classified as a suspect because of possible exposure to a tuberculous animal.

(b) *Comparative cervical tuberculin (CCT) test.* (1) The CCT test is a supplemental test that may only be used for retesting captive cervids classified as suspects. The CCT test may be used in affected herds only after the herd has tested negative to at least two whole herd SCT tests and only with the prior written consent of the DTE. The CCT test may not be used as a primary test for herds of unknown tuberculous status.

(2) A captive cervid tested with the CCT test must be classified as negative if it has a response to the bovine PPD tuberculin that is less than 1 mm.

(3) Unless the testing veterinarian determines that the captive cervid should be classified as a reactor because of possible exposure to a tuberculous animal, a captive cervid tested with the CCT test must be classified as a suspect if:

(i) It has a response to the bovine PPD tuberculin that is greater than 2 mm and that is equal to the response to the avian PPD tuberculin; or

(ii) It has a response to the bovine PPD tuberculin that is equal to or greater than 1 mm and equal to or less than 2 mm and that is equal to or greater than the response to the avian PPD tuberculin.

(4) A captive cervid tested with the CCT test must be classified as a reactor if:

(i) It has a response to the bovine PPD tuberculin that is greater than 2 mm and that is at least 0.5 mm greater than the response to the avian PPD tuberculin; or

(ii) It has been classified as a suspect on two successive CCT tests.

(iii) Any exceptions to reactor classification under the conditions in paragraph (b)(4)(i) and (b)(4)(ii) of this section must be justified by the testing veterinarian in writing and have the concurrence of the DTE.

[65 FR 63517, Oct. 23, 2000, as amended at 71 FR 24806, Apr. 27, 2006]

§ 77.35 Interstate movement from accredited herds.

(a) *Qualifications.* To be recognized as an accredited herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.33(f) must have tested negative to at least two consecutive official tuberculosis tests, conducted at 9–15 month intervals. However, captive cervids under 1 year of age that are not natural additions to the herd do not have to be tested if they were born in and originate from an accredited herd.

(2) The owner of the herd must have a document issued by cooperating State or Federal animal health officials stating that the herd has met the requirements in paragraph (a)(1) of this section and is classified as an accredited herd.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, and except as provided in § 77.31 with regard to captive cervids that originate in a nonaccredited State or zone, a captive cervid from an accredited herd may be moved interstate without further tuberculosis testing only if it is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from an accredited herd. If a group of captive cervids from an accredited herd is being moved interstate together to the same destination, all captive cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to an accredited

herd except in accordance with paragraphs (c)(4) and (c)(5), and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the accredited herd. Any captive cervid moved from a qualified or monitored herd must also be isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other livestock during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and have been released from isolation; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must be isolated from all other members of the herd of origin and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the accredited herd. The captive cervid must also be isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other animals during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of

the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and have been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of accredited herd status.* To maintain status as an accredited herd, the herd must test negative to an official tuberculosis test within 33–39 months from the anniversary date of the second consecutive test with no evidence of tuberculosis disclosed (that is, the test on which the herd was recognized as accredited or the accrediting test). Each time the herd is tested for reaccreditation, it must be tested 33–39 months from the anniversary date of the accrediting test, not from the last date of reaccreditation (for example, if a herd is accredited on January 1 of a given year, the anniversary date will be January 1 of every third year). Accredited herd status is valid for 36 months (1,095 days) from the anniversary date of the accrediting test. If the herd is tested between 36 and 39 months after the anniversary date, its accredited herd status will be suspended for the interim between the anniversary date and the reaccreditation test. During the suspension period, the herd will be considered “unclassified” and captive cervids may be moved interstate from the herd only in accordance with the movement requirements for the State or zone in which the herd is located.

[65 FR 63517, Oct. 23, 2000, as amended at 71 FR 24806, Apr. 27, 2006]

§ 77.36 Interstate movement from qualified herds.

(a) *Qualifications.* To be recognized as a qualified herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.33(f) must have tested negative to one official tuberculosis test that was administered to the herd within a 7-month period. However, captive cervids under 1 year of age that are not natural additions do not have to be tested if

they were born in and originate from an accredited, qualified, or monitored herd.

(2) The owner of the herd must have a document issued by cooperating State and Federal animal health officials stating that the herd has met the requirement in paragraph (a)(1) of this section and is classified as a qualified herd.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, and except as provided in § 77.31 with regard to captive cervids that originate in a nonaccredited State or zone, a captive cervid from a qualified herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from a qualified herd. Except as provided in paragraphs (b)(3) and (b)(4) of this section, the certificate must also state that the captive cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of captive cervids from a qualified herd is being moved interstate together to the same destination, all captive cervids in the group may be moved under one certificate.

(3) Captive cervids under 1 year of age that are natural additions to the qualified herd or that were born in and originate from a classified herd may move without testing, provided that the certificate accompanying them states that the captive cervids are natural additions to the qualified herd or were born in and originated from a classified herd and have not been exposed to captive cervids from an unclassified herd.

(4) Captive cervids being moved interstate for the purpose of exhibition only may be moved without testing, provided they are returned to the premises of origin no more than 90 days after leaving the premises, have no contact with other livestock during movement and exhibition, and are accompanied by a certificate that in-

cludes a statement that the captive cervid is from a qualified herd and will otherwise meet the requirements of this paragraph.

(c) *Herd additions allowed.* No captive cervid may be added to a qualified herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the accredited herd;

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must be isolated from all other animals in its herd of origin and must test negative to two official tuberculosis tests prior to movement. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the qualified herd. The captive cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the qualified herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other livestock during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the qualified herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of qualified herd status.* To maintain status as a qualified herd, the herd must test negative to an

official tuberculosis test within 9–15 months from the anniversary date of the first test with no evidence of tuberculosis disclosed (this is the qualifying test). Each time the herd is retested for qualified status, it must be tested 9–15 months from the anniversary date of the qualifying test, not from the last date of requalification (for example, if a herd is qualified on January 1 of a given year, the anniversary date will be January 1 of each consecutive year). Qualified herd status remains in effect for 12 months (365 days) following the anniversary date of the qualifying test. Qualified herd status will be suspended between the anniversary date and the requalifying test, if the herd is not tested within 12 months. During the suspension period, the herd will be considered “unclassified” and captive cervids may be moved interstate from the herd only in accordance with the movement requirements for the State or zone in which the herd is located.

§ 77.37 Interstate movement from monitored herds.

(a) *Qualifications.* To be recognized as a monitored herd:

(1) Identification records must be maintained by the person, firm, or corporation responsible for the management of the herd for as long as status as a monitored herd is desired. Such records must be maintained on all captive cervids in the herd that are slaughtered, inspected, and found negative for tuberculosis at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory. Identification records may also include captive cervids from the herd that tested negative for tuberculosis in accordance with requirements for interstate movement. No less than one-half of the captive cervids on which records are kept must be slaughtered inspected; and

(2) A sufficient number of captive cervids in the herd must be slaughter inspected or tested for interstate movement to ensure that tuberculosis infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent.² A max-

imum number of 178 captive cervids must be slaughter inspected or tested for interstate movement over a 3-year period to meet this requirement.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, and except as provided in § 77.31 with regard to captive cervids that originate in a nonaccredited State or zone, a captive cervid from a monitored herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from a monitored herd. Except as provided in paragraph (b)(3) of this section, the certificate must also state that the captive cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of captive cervids from a monitored herd is being moved interstate together to the same destination, all captive cervids in the group may be moved under one certificate.

(3) Captive cervids under 1 year of age that are natural additions to the monitored herd or that were born in and originate from a classified herd may move without testing, provided that the certificate accompanying them states that the captive cervids are natural additions to the monitored herd or were born in and originated from a classified herd and have not been exposed to captive cervids from an unclassified herd.

(c) *Herd additions allowed.* No captive cervid may be added to a monitored herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

tested for interstate movement, depending on the size of a herd, to meet this requirement may be obtained from the National Animal Health Programs staff, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

²A chart showing the number of captive cervids that must be slaughter inspected or

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the monitored herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must be isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the monitored herd. The captive cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date it arrives at the premises of the monitored herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other animals during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the monitored herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of monitored herd status.* The person, firm, or corporation responsible for the management of the herd must submit an annual report to cooperating State or Federal animal health officials prior to the anniversary date of classification. This report must give the number of captive cervids currently in the herd; the number of captive cervids from the herd 1 year of age and older identified, slaughtered, and inspected at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory during the preceding year;

and the number of captive cervids that have tested negative for tuberculosis in accordance with interstate movement requirements. The number of slaughter inspections or negative testing captive cervids reported in any given year must be at least 25 percent of the total number required over a 3-year period to qualify a herd for monitored herd status. During each consecutive 3-year period, 100 percent of the qualifying total must be reported.

[65 FR 63517, Oct. 23, 2000, as amended at 71 FR 24806, Apr. 27, 2006]

§ 77.38 Interstate movement from herds that are not accredited, qualified, or monitored.

The Administrator may, with the concurrence of the cooperating State animal health officials of the State of destination, and upon request in specific cases, permit the movement of captive cervids not otherwise provided for in this part which have not been classified as reactors and are not otherwise known to be affected with tuberculosis, under such conditions as the Administrator may prescribe in each specific case to prevent the spread of tuberculosis. The Administrator shall promptly notify the appropriate cooperating State animal health officials of the State of destination of any such action.

§ 77.39 Other interstate movements.

(a) *Herds containing a suspect*—(1) *The suspect.* (i) A captive cervid classified as a suspect on the SCT test must be quarantined until it is slaughtered or retested by the CCT test and found negative for tuberculosis. Retesting must be as follows:

(A) The first CCT test must be administered within the first 10 days following the SCT test or, if not, must be administered at least 90 days after the SCT test. If the CCT test is administered within 10 days of the SCT test, the injection must be on the side of the neck opposite the injection for the SCT test.

(B) [Reserved]

(ii) A captive cervid classified as a suspect on the first CCT test must be quarantined until the following has occurred:

(A) A suspect on the first CCT test is tested with a second CCT test at least 90 days after the first CCT test and is found negative for tuberculosis.

(B) [Reserved]

(2) *The remainder of the herd.* Any herd containing a suspect to an official tuberculosis test must be quarantined until the suspect is retested by the CCT test or the BTB test and found negative for tuberculosis, or the suspect is inspected at slaughter or necropsied and found negative for tuberculosis after histopathology and culture of selected tissues. If the suspect is found negative for tuberculosis upon testing, or after slaughter inspection or necropsy and histopathology and culture of selected tissues, the herd may be released from quarantine and will return to the herd classification status in effect before the herd was quarantined. If the suspect is classified as a reactor upon testing, or after slaughter inspection or necropsy and histopathology and/or culture of selected tissues, the herd may be released from quarantine only in accordance with paragraph (b) of this section for herds containing a reactor.

(b) *Herds containing a reactor.* The following requirements apply to herds containing a reactor, except for herds that have received captive cervids from an affected herd. Herds that have received captive cervids from an affected herd must be quarantined and tested in accordance with paragraph (e) of this section.

(1) *The reactor.* Captive cervids classified as reactors must be quarantined.

(2) *The remainder of the herd.* Any herd containing reactors must be quarantined until the reactors are slaughtered or necropsied in accordance with § 77.40 and:

(i) If, upon slaughter inspection or necropsy, any reactors exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, the remainder of the herd may be released from quarantine in accordance with the provisions of paragraph (c) of this section.

(ii) If *M. bovis* is isolated from any reactors, the remainder of the herd will be considered an affected herd, and will

be subject to the provisions for affected herds in paragraph (d) of this section.

(iii) If upon slaughter inspection or necropsy all reactors exhibit no gross lesions (NGL) of tuberculosis and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on specimens taken from the NGL animals, the remainder of the herd may be released from quarantine, and captive cervids from the herd may be moved interstate in accordance with the herd classification status in effect before the herd was quarantined if one of the following conditions is met:

(A) The remainder of the herd is given a whole herd test and is found negative for tuberculosis.

(B) The remainder of the herd is given a whole herd test, and all reactors to the whole herd test exhibit no gross lesions (NGL) of tuberculosis upon slaughter inspection or necropsy and no evidence of tuberculosis infection is found by histopathology or culture of *M. bovis* on specimens taken from the NGL animals.

(iv) If no evidence of tuberculosis is found in any reactor upon slaughter inspection or necropsy, but it is not possible to conduct a whole herd test on the remainder of the herd, the herd will be evaluated, based on criteria such as the testing history of the herd and the State history of tuberculosis infection, by the DTE to determine whether the herd may be released from quarantine.

(c) *Herds found to have only lesions of tuberculosis.* A herd in which captive cervids with lesions compatible with or suggestive of tuberculosis are found by histopathology without the isolation of *M. bovis* may be released from quarantine and return to the herd classification status in effect before the herd was quarantined, with the concurrence of the DTE, if the herd tests negative to tuberculosis on a whole herd test conducted 90 days following the removal of the lesioned captive cervid, provided the herd has not been exposed to *M. bovis* during the 90 days. To maintain its herd classification status, the herd must test negative to two annual whole herd tests beginning 10–12 months after the herd is released from quarantine. If any captive cervids in the herd respond to one of the tests,

the herd will be subject to the provisions of paragraph (a) or (b) of this section. If the herd is not given the two annual whole herd tests, it will become an unclassified herd.

(d) *Affected herds.* A herd determined to be an affected herd must be quarantined until the herd has tested negative to three whole herd tests in succession, with the first test given 90 days or more after the last test yielding a reactor and the last two tests given at intervals of not less than 180 days. If the herd tests negative to the three whole herd tests, it will be released from quarantine, but will be considered an unclassified herd, and captive cervids may only be moved interstate from the herd in accordance with the movement requirements for the State or zone in which the herd is located. In addition, the herd must be given five consecutive annual whole herd tests after release from quarantine. (These five tests will count toward qualifying the herd for herd classification.) As an alternative to testing, the herd may be depopulated.

(e) *Herds that have received captive cervids from an affected herd.* If a herd has received captive cervids from an affected herd, the captive cervids from the affected herd of origin will be considered exposed to tuberculosis. The exposed captive cervids and the receiving herd must be quarantined. The exposed captive cervids must be slaughtered, necropsied, or tested with the SCT test by a veterinarian employed by the State in which the test is administered or employed by USDA. Any exposed captive cervid that responds to the SCT test must be classified as a reactor and must be slaughter inspected or necropsied. Any exposed captive cervid that tests negative to the SCT test will be considered as part of the affected herd of origin for purposes of testing, quarantine, and the five annual whole herd tests required for affected herds in paragraph (d) of this section.

(1) If bovine tuberculosis is confirmed in any of the exposed captive cervids by bacterial isolation of *M. bovis*, the receiving herd will be classified as an affected herd and will be subject to the provisions for affected herds in paragraph (d) of this section.

(2) If any of the exposed captive cervids are found to exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, the receiving herd will be subject to appropriate testing as determined by the DTE.

(3) If all the exposed captive cervids test negative for tuberculosis, the receiving herd will be released from quarantine if it is given a whole herd test and is found negative for tuberculosis and will return to the herd classification in effect before the herd was quarantined. In addition, the receiving herd must be retested with the SCT test 1 year after release from quarantine in order for captive cervids from the herd to continue to be moved interstate. Supplemental diagnostic tests may be used if any captive cervids in the herd show a response to the SCT test.

(f) *Source herds.* A herd suspected of being the source of tuberculous captive cervids based on a slaughter traceback investigation must be quarantined upon notification (by the person conducting the investigation) to the USDA area veterinarian in charge for the State in which the herd resides, and a herd test must be scheduled. If the herd is suspected of being the source of slaughter captive cervids having lesions of tuberculosis, the herd test must be done by a veterinarian employed by the State in which the test is administered or employed by USDA.

(1) If the herd is identified as the source of captive cervids having lesions of tuberculosis and *M. bovis* has been confirmed by bacterial isolation from the slaughter animal, all captive cervids in the herd that respond to the SCT test must be classified as reactors. If none respond to the SCT test, the herd may be released from quarantine and will return to the herd classification status in effect before the herd was quarantined, unless the DTE judges that additional testing is appropriate to ensure the herd's freedom from tuberculosis.

(2) If the herd is identified as the source of captive cervids that exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, all captive cervids in the herd that respond to the SCT test must

be classified as suspects, and supplemental tests must be applied.

(3) If the herd is not identified as the source herd, the herd will be released from quarantine if the herd is given a whole herd test and is found negative for tuberculosis. The herd will then return to the herd classification status in effect before the herd was quarantined.

(g) *Newly assembled herds.* (1) A newly assembled herd will be classified as having the herd status of the herd from which the captive cervids originated. If the herd is assembled from captive cervids from more than one herd, it will be classified as having the herd status of the originating herd with the lowest status. A newly assembled herd will also assume the testing schedule of the herd status it is given. Captive cervids in the herd must have no exposure to captive cervids from a herd of lesser status than the herd of origin determining the status of the newly assembled herd or to any tuberculous livestock.

(2) A herd newly assembled on premises where a tuberculous herd has been depopulated must be given two consecutive annual whole herd tests. The first test must be administered at least 6 months after the assembly of the new herd. If the whole herd tests are not conducted within the indicated time-frame, the herd will be quarantined. If the herd tests negative to the two whole herd tests, there are no further requirements. If any captive cervid in the herd responds on one of the whole herd tests, the herd will be subject to the provisions of paragraph (a) or (b) of this section. If the premises has been vacant for more than 1 year preceding the assembly of the new herd on the premises, these requirements may be waived if the risk of tuberculosis transmission to the newly assembled herd is deemed negligible by cooperating State and Federal animal health officials.

[65 FR 63517, Oct. 23, 2000, as amended at 71 FR 24806, Apr. 27, 2006]

§ 77.40 Procedures for and interstate movement to necropsy and slaughter.

(a) *Procedures for necropsy and slaughter.* (1) A necropsy must be performed by or under the supervision of a veterinarian who is employed by USDA or

employed by the State in which the captive cervid was classified, and who is trained in tuberculosis necropsy procedures.

(2) If, upon necropsy, a captive cervid is found without evidence of *M. bovis* infection by histopathology and culture, the captive cervid will be considered negative for tuberculosis.

(3) Reactors, suspects, and exposed captive cervids may be slaughtered only at an approved slaughtering establishment, as defined in § 77.20.

(b) *Interstate movement to necropsy or slaughter—*(1) *Permit.* Any reactor, suspect, or exposed captive cervid to be moved interstate to necropsy or slaughter must be accompanied by a permit issued by a representative of APHIS, a State representative, or an accredited veterinarian. The captive cervid must remain on the premises where it was identified as a reactor, suspect, or exposed captive cervid until a permit for its movement is obtained. No stopover or diversion from the destination listed on the permit is allowed. If a change in destination becomes necessary, a new permit must be obtained from a cooperating State or Federal animal health official or an accredited veterinarian before the interstate movement begins. The permit must list:

- (i) The classification of the captive cervid (reactor, suspect, or exposed);
- (ii) The reactor eartag number or, for suspects and exposed captive cervids, the official eartag or other approved identification number;
- (iii) The owner's name and address;
- (iv) The origin and destination of the captive cervids;
- (v) The number of captive cervids covered by the permit; and
- (vi) The purpose of the movement.

(2) *Identification of reactors.* Reactors must be tagged with an official eartag attached to the left ear and bearing a serial number and the inscription "U.S. Reactor," and either:

- (i) Branded with the letter "T" high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or
- (ii) Permanently identified by the letters "TB" tattooed legibly in the left ear, sprayed on the left ear with yellow paint, and either accompanied

directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(3) *Identification of exposed captive cervids.* Exposed captive cervids must be identified by an official eartag or other approved identification and either:

(i) Branded with the letter “S” high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

§ 77.41 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering captive cervids in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous or reactor livestock must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey, hold, or in any way come in contact with any livestock.

PART 78—BRUCELLOSIS

Subpart A—General Provisions

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AUTHORITY: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 51 FR 32580, Sept. 12, 1986, unless otherwise noted.

Subpart A—General Provisions**§ 78.1 Definitions.**

The following terms are defined in this section:

Accredited veterinarian
 Administrator
 Animals
 Animal and Plant Health Inspection Service
 APHIS representative
 Approved brucella vaccine
 Approved individual herd plan
 Approved intermediate handling facility
 Area
 “B” branded
 Boar
 Brucellosis
 Brucellosis exposed
 Brucellosis negative
 Brucellosis reactor
 Brucellosis ring test
 Brucellosis suspect
 Certificate
 Certified brucellosis-free herd
 Class A State or area
 Class B State or area
 Class C State or area
 Class Free State or area
 Complete herd test (CHT)
 Confirmatory test
 Dairy cattle
 Designated epidemiologist
 Directly
 Epidemiologist
 Epidemiology
 Farm of origin
 Feral swine
 Finished fed cattle
 Herd
 Herd blood test
 Herd known to be affected
 Herd not known to be affected
 Herd of origin of swine
 Interstate
 Market cattle identification test cattle
 Market swine test (MST) reactor
 Market swine test swine
 Monitored-negative feral swine population
 Moved
 Moved (movement) in interstate commerce
 Official adult vaccinate
 Official brand inspection certificate
 Official brand recording agency
 Official calfhood vaccinate
 Official eartag
 Official seal
 Official swine tattoo
 Official test
 Official vaccinate
 Official vaccination eartag
 Originate
 Parturient
 Permit
 Permit for entry
 Person

Postparturient
 Purebred registry association
 Qualified herd
 Quarantined area
 Quarantined feedlot
 Quarantined pasture
 Recognized slaughtering establishment
 “S” branded
 “S” brand permit
 Sow
 Specifically approved stockyard
 State
 State animal health official
 State representative
 Successfully closed case
 Swine brucellosis
 Test-eligible cattle and bison
 United States Department of Agriculture
 backtag
 Validated brucellosis-free herd
 Validated brucellosis-free State
 Veterinarian in Charge
 Whole herd vaccination

As used in this part, the following terms shall have the meanings set forth in this section.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animals. Cattle, bison, and swine.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States. The AIN contains 15 digits, with the first 3 being the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Approved brucella vaccine. A *Brucella* product approved by and produced

under license of the United States Department of Agriculture for injection into cattle or bison to enhance their resistance to brucellosis.

Approved individual herd plan. A herd management and testing plan designed by the herd owner, the owner's veterinarian if so requested, and a State representative or APHIS representative to determine the disease status of animals in the herd and to control and eradicate brucellosis within the herd. The plan must be jointly approved by the State animal health official and the Veterinarian in Charge.

Approved intermediate handling facility. Premises approved by the Administrator and the State animal health official for receiving and handling cattle and bison for release only to recognized slaughtering establishments and quarantined feedlots. Cattle and bison may be held at an approved intermediate handling facility for a maximum of 7 days and may not change ownership during this time. No cattle or bison, except cattle or bison moved directly from a farm of origin, shall be permitted to enter an approved intermediate handling facility unless they are accompanied by a permit or "S" brand permit. Cattle or bison transported in vehicles closed with official seals are prohibited from entering the approved intermediate handling facility. No cattle or bison shall be permitted to leave an approved intermediate handling facility unless they are accompanied by a permit or "S" brand permit which lists a recognized slaughtering establishment or a quarantined feedlot as the point of destination. To qualify for and retain approval, the following conditions must be met: (a) The facility must be separate and apart from other livestock handling facilities for breeding cattle and breeding bison; (b) Serviceable equipment for cleaning and disinfection shall be furnished and maintained with adequate disinfectant on hand; (c) The facility must be cleaned and disinfected in accordance with § 71.4(a) of this chapter; (d) Any document relating to cattle or bison which are or have been in the facility shall be maintained by the facility for a period of 1 year; (e) State representatives and APHIS representatives shall be granted, at rea-

sonable hours, access to all documents required to be maintained by the facility and authority to reproduce the documents; and (f) Each entrance and exit to the facility must prominently display a sign bearing the following words: "All cattle and bison entering this facility must go directly to slaughter or a quarantined feedlot". The Administrator may withdraw or deny approval of any intermediate handling facility in accordance with § 71.20 of this chapter.

Area. That portion of any State which has a separate brucellosis classification under this part.

"B" branded. Branding with a hot iron the letter "B" high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size.

Boar. An uncastrated male swine 6 months of age or over which is or has been capable of being used for breeding purposes.

Brucellosis. The contagious, infectious, and communicable disease caused by bacteria of the genus *Brucella*. It is also known as Bangs disease, undulant fever, and contagious abortion.

Brucellosis exposed. Except for brucellosis reactors, animals that are part of a herd known to be affected, or are in a quarantined feedlot or a quarantined pasture, or are brucellosis suspects, or that have been in contact with a brucellosis reactor for a period of 24 hours or more, or for a period of less than 24 hours if the brucellosis reactor has aborted, calved, or farrowed within the past 30 days or has a vaginal or uterine discharge.

Brucellosis negative. An animal subjected to one or more official tests resulting in a brucellosis negative classification or reclassified as brucellosis negative by a designated epidemiologist as provided for in the definition of official test.

Brucellosis reactor. An animal subjected to an official test resulting in a brucellosis reactor classification or subjected to a bacteriological examination for field strain *Brucella abortus* and found positive or reclassified as a brucellosis reactor by a designated epidemiologist as provided for in the definition of official test.

Brucellosis ring test. The brucellosis ring test is conducted on composite milk or cream samples from dairy herds and is interpreted as either negative or suspicious (positive). Herds which are negative to the brucellosis ring test and which are not quarantined as brucellosis affected are classified as brucellosis negative for public health ordinances and surveillance purposes. Herds classified as suspicious require a herd blood test to determine animal and herd status.

Brucellosis suspect. An animal subjected to an official test resulting in a brucellosis suspect classification or reclassified as a brucellosis suspect by a designated epidemiologist as provided for in the definition of official test.

Certificate. An official document issued by an APHIS representative, state representative, or accredited veterinarian at the point of origin of an interstate movement of animals.

(a) The certificate must show the official eartag number, individual animal register breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, or similar individual identification of each animal to be moved; the number of animals covered by the certificate; the purpose for which the animals are to be moved; the points of origin and destination; the consignor; and the consignee. Ownership brands may be used in place of individual animal identification on certificates for cattle moved interstate when no official test for brucellosis is required under this part, provided the ownership brands are registered with the official brand recording agency. Except as provided in paragraphs (b) and (c) of this definition, all of the information required by this paragraph must be typed or written on the certificate.

(b) As an alternative to typing or writing individual animal identification on a certificate, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a state form or APHIS form that requires individual identification of animals;

(2) A legible copy of the document must be stapled to the original and each copy of the certificate;

(3) Each copy of the document must identify each animal to be moved with the certificate, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

(c) As an alternative to typing or writing ownership brands on a certificate, an official brand inspection certificate may be used to provide this information, but only under the following conditions:

(1) A legible copy of the official brand inspection certificate must be stapled to the original and each copy of the certificate;

(2) Each copy of the official brand inspection certificate must show the ownership brand of each animal to be moved with the certificate, but any other ownership brands, and any unused space for recording ownership brands, must be crossed out in ink;

(3) The following information must be written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the attached document; and

(ii) Either the serial number on the official brand inspection certificate or, if the official brand inspection certificate is not imprinted with a serial number, both the name of the person who prepared the official brand inspection certificate and the date it was signed.

Certified brucellosis-free herd. A herd of cattle or bison which has qualified for and whose owner has been issued a

certified brucellosis-free herd certificate signed by the appropriate State animal health official and the Veterinarian in Charge.

(a) *Certification.* Either of the following two methods may be used to qualify a herd:

(1) In the case of dairy cattle, by conducting a minimum of four consecutive negative brucellosis ring tests at not less than 90-day intervals, followed by a negative herd blood test within 90 days after the last negative brucellosis ring test; or

(2) By conducting at least two consecutive negative herd blood tests not less than 10 months nor more than 14 months apart.

(b) *Maintaining certification.* Certified brucellosis-free herd status will remain in effect for 1 year beginning with the date of issuance of the certified brucellosis-free herd certificate. A negative herd blood test must be conducted within 10 to 12 months of the last certification date for continuous status. Lapsed certification may be reinstated if a herd blood test is conducted within 14 months of the last certification date. A new recertification test date may be established if requested by the owner and if the herd is negative to a herd blood test on that date, provided that date is within 1 year of the previous certification date. A herd which loses certified brucellosis-free herd status because a brucellosis reactor is found in the herd may be recertified only by repeating the certification process, except that certified brucellosis-free herd status may be reinstated without repeating the certification process if epidemiological studies and bacteriological cultures conducted by an APHIS representative or State representative show that the herd was not affected with field strain *Brucella abortus*.

Class A State or area. A State or area which meets standards for classification as a Class A State or area and is certified as such on initial classification or on reclassification by the State animal health official, the Veterinarian in Charge, and the Administrator. Any reclassification will be made in accordance with § 78.40 of this part. The following are the standards to attain and maintain Class A status.

(a) *Surveillance*—(1) *Brucellosis ring test.* The brucellosis ring test shall be conducted in the State or area at least four times per year at approximately 90-day intervals. All herds producing milk for sale shall be included in at least three of the four brucellosis ring tests per year.

(2) *Market Cattle Identification (MCI) program*—(i) *Coverage.* All recognized slaughtering establishments in the State or area must participate in the MCI program. Blood samples shall be collected from at least 95 percent of all cows and bulls 2 years of age or over at each recognized slaughtering establishment and subjected to an official test;

(ii) *Brucellosis reactors*—(A) *Tracebacks.* At least 90 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin.

(B) *Successfully closed cases.* The State or area must successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the 12-consecutive-month period immediately prior to the most recent anniversary of the date the State or area was classified Class A. To successfully close an MCI reactor case, State representatives or APHIS representatives must conduct an epidemiologic investigation at the farm of origin within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. Herd blood tests must be conducted or the herd must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test, unless a designated epidemiologist determines that:

(1) The brucellosis reactor is located in a herd in a different State than the State where the MCI blood sample was collected. In such cases a State representative or APHIS representative must give written notice of the MCI test results to the State animal health official in the State where the brucellosis reactor is located; or

(2) Evidence indicates that the brucellosis reactor is from a herd that no longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis.

Such evidence could include, but is not limited to, situations where:

(i) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;

(ii) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or

(iii) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

(3) *Epidemiologic surveillance*—(i) *Adjacent herds*. All adjacent herds or other herds having contact with cattle in a herd known to be affected shall have an approved individual herd plan in effect within 15 days of notification of brucellosis in the herd known to be affected; (ii) *Epidemiologically traced herds*. All herds from which cattle are moved into a herd known to be affected and all herds which have received cattle from a herd known to be affected shall have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd. (iii) Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

(b) *Herd infection rate*—(1) *Percentage of herds affected*. States or areas must not exceed a cattle herd infection rate, based on the number of herds found to have brucellosis reactors within the State or area during any 12 consecutive months due to field strain *Brucella abortus*, of 0.25 percent or 2.5 herds per 1,000, except in States with 10,000 or fewer herds. A special review by the Administrator will be made to determine if such small herd population States would qualify for Class A status. Locations of herds, sources of brucellosis, and brucellosis control measures taken by the State will be considered.

(2) *Epidemiologic investigation*. Within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors have been found in any herd, State representatives or APHIS representatives shall investigate that herd to identify possible sources of brucellosis. All possible

sources of brucellosis identified shall be contacted within an additional 15 days to determine appropriate action.

(3) All herds known to be affected shall have approved individual herd plans in effect within 15 days after notification by a State representative or APHIS representative of a brucellosis reactor in the herd. Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

Class B State or area. A State or area which meets standards for classification as a Class B State or area and is certified as such on initial classification or on reclassification by the State animal health official, the Veterinarian in Charge, and the Administrator. Any reclassification will be made in accordance with § 78.40 of this part. The following are the standards to attain and maintain Class B status.

(a) *Surveillance*—(1) *Brucellosis ring test*. The brucellosis ring test shall be conducted in the State or area at least four times per year at approximately 90-day intervals. All herds producing milk for sale shall be included in at least three of the four brucellosis ring tests per year.

(2) *Market Cattle Identification (MCI) program*—(i) *Coverage*. All recognized slaughtering establishments in the State or area must participate in the MCI program. Blood samples shall be collected from at least 95 percent of all cows and bulls 2 years of age or over at each recognized slaughtering establishment and subjected to an official test;

(ii) *Brucellosis reactors*—(A) *Tracebacks*. At least 80 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin.

(B) *Successfully closed cases*. The State or area must successfully close at least 90 percent of the MCI reactor cases traced to the farm of origin during the 12-consecutive-month period immediately prior to the most recent anniversary of the date the State or area was classified Class B. To successfully close an MCI reactor case, State representatives or APHIS representatives must conduct an epidemiologic investigation at the farm of origin within 30

days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. Herd blood tests must be conducted or the herd must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test, unless a designated epidemiologist determines that:

(1) The brucellosis reactor is located in a herd in a different State than the State where the MCI blood sample was collected. In such cases a State representative or APHIS representative must give written notice of the MCI test results to the State animal health official in the State where the brucellosis reactor is located; or

(2) Evidence indicates that the brucellosis reactor is from a herd that no longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis. Such evidence could include, but is not limited to, situations where:

(i) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;

(ii) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or

(iii) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

(3) *Epidemiologic surveillance*—(i) *Adjacent herds*. All adjacent herds or other herds having contact with cattle in a herd known to be affected shall have an approved individual herd plan in effect within 45 days of notification of brucellosis in the herd known to be affected; (ii) *Epidemiologically traced herds*. All herds from which cattle are moved into a herd known to be affected and all herds which have received cattle from a herd known to be affected shall have an approved individual herd plan in effect within 45 days of locating the source herd or recipient herd. (iii) Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

(b) *Herd infection rate*—(1) *Percentage of herds affected*. States or areas must not exceed a cattle herd infection rate, based on the number of herds found to have brucellosis reactors within the State or area during any 12 consecutive months due to field strain *Brucella abortus*, of 1.5 percent or 15 herds per 1,000, except in States with 1,000 or fewer herds. A special review by the Administrator will be made to determine if such small herd population States would qualify for Class B status. Locations of herds, sources of brucellosis, and brucellosis control measures taken by the State will be considered.

(2) *Epidemiologic investigation*. Within 45 days after notification by the cooperative State-Federal laboratory that brucellosis reactors have been found in any herd, State representatives or APHIS representatives shall investigate that herd to identify possible sources of brucellosis. All possible sources of brucellosis identified shall be contacted within an additional 30 days to determine appropriate action.

(3) All herds known to be affected shall have approved individual herd plans in effect within 45 days after notification by a State representative or APHIS representative of a brucellosis reactor in the herd. Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

Class C State or area. A State or area which meets standards for classification as a Class C State or area and is certified as such on initial classification or on reclassification by the State animal health official, the Veterinarian in Charge, and the Administrator. Any reclassification will be made in accordance with § 78.40 of this part. The following are the standards to attain and maintain Class C status.

(a) *Surveillance*—(1) *Brucellosis ring test*. The brucellosis ring test shall be conducted in the State or area at least four times per year at approximately 90-day intervals. All herds producing milk for sale shall be included in at least three of the four brucellosis ring tests per year.

(2) *Market Cattle Identification (MCI) program*—(i) *Coverage*. All recognized slaughtering establishments in the

State or area must participate in the MCI program. Blood samples shall be collected from at least 95 percent of all cows and bulls 2 years of age or over at each recognized slaughtering establishment and subjected to an official test;

(ii) *Brucellosis reactors—*

(A) *Tracebacks.* At least 80 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin.

(B) *Successfully closed cases.* The State or area must successfully close at least 90 percent of the MCI reactor cases traced to the farm of origin during the 12-consecutive-month period immediately prior to the most recent anniversary of the date the State or area was classified Class C. To successfully close an MCI reactor case, State representatives or APHIS representatives must conduct an epidemiologic investigation at the farm of origin within 30 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. Herd blood tests must be conducted or the herd must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test, unless a designated epidemiologist determines that:

(1) The brucellosis reactor is located in a herd in a different State than the State where the MCI blood sample was collected. In such cases a State representative or APHIS representative must give written notice of the MCI test results to the State animal health official in the State where the brucellosis reactor is located; or

(2) Evidence indicates that the brucellosis reactor is from a herd that no longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis. Such evidence could include, but is not limited to, situations where:

(i) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;

(ii) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or

(iii) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent

vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

(3) *Epidemiologic surveillance—*(i) *Adjacent herds.* All adjacent herds or other herds having contact with cattle in a herd known to be affected shall have an approved individual herd plan in effect within 45 days of notification of brucellosis in the herd known to be affected; (ii) *Epidemiologically traced herds.* All herds from which cattle are moved into a herd known to be affected and all herds which have received cattle from a herd known to be affected shall have an approved individual herd plan in effect within 45 days of locating the source herd or recipient herd. (iii) Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

(b) *Herd infection rate—*(1) *Percentage of herds affected.* States or areas exceed a cattle herd infection rate, based on the number of herds found to have brucellosis reactors within the State or area during any 12 consecutive months due to field strain *Brucella abortus*, of 1.5 percent or 15 herds per 1,000, except in States with 1,000 or fewer herds. A special review by the Administrator will be made to determine if such small herd population States should be classified as a Class C State. Locations of herds, sources of brucellosis, and brucellosis control measures taken by the State will be considered.

(2) *Epidemiologic investigation.* Within 45 days after notification by the cooperative State-Federal laboratory that brucellosis reactors have been found in any herd, State representatives or APHIS representatives shall investigate that herd to identify possible sources of brucellosis. All possible sources of brucellosis identified shall be contacted within an additional 30 days to determine appropriate action.

(3) All herds known to be affected shall have approved individual herd plans in effect within 45 days after notification by a State representative or APHIS representative of a brucellosis reactor in the herd. Each State shall ensure that such approved individual herd plans are effectively complied

with, as determined by the Administrator.

(c) *Compliance with minimum procedural standards.* (1) A State must implement and maintain minimum procedural standards.

(2) A State or area must make continued progress over a 2-year period in reducing the prevalence of brucellosis as determined by epidemiologic evaluation or it will be placed under Federal quarantine.

Class Free State or area. A State or area which meets standards for classification as a Class Free State or area and is certified as such on initial classification or on reclassification by the State animal health official, the Veterinarian in Charge, and the Administrator. Any reclassification will be made in accordance with § 78.40 of this part. All cattle herds in the State or area in which brucellosis has been known to exist must be released from any State or Federal brucellosis quarantine prior to classification. In addition, if any herds of other species of domestic livestock have been found to be affected with brucellosis, they must be subjected to an official test and found negative, slaughtered, or quarantined so that no known foci of brucellosis in any species of domestic livestock are left uncontrolled. The following are the standards to attain and maintain Class Free status.

(a) *Surveillance*—(1) *Brucellosis ring test.* The State or area shall conduct as many brucellosis ring tests per year as are necessary to ensure that all herds producing milk for sale are tested at least twice per year at approximately 6-month intervals.

(2) *Market Cattle Identification (MCI) program*—(i) *Coverage.* All recognized slaughtering establishments in the State or area must participate in the MCI program. Blood samples shall be collected from at least 95 percent of all cows and bulls 2 years of age or over at each recognized slaughtering establishment and subjected to an official test;

(ii) *Brucellosis reactors*—(A) *Tracebacks.* At least 90 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin.

(B) *Successfully closed cases.* The State or area must successfully close at least

95 percent of the MCI reactor cases traced to the farm of origin during the 12-consecutive-month period immediately prior to the most recent anniversary of the date the State or area was classified Class Free. To successfully close an MCI reactor case, State representatives or APHIS representatives must conduct an epidemiologic investigation at the farm of origin within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. Herd blood tests must be conducted or the herd must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test, unless a designated epidemiologist determines that:

(1) The brucellosis reactor is located in a herd in a different State than the State where the MCI blood sample was collected. In such cases a State representative or APHIS representative must give written notice of the MCI test results to the State animal health official in the State where the brucellosis reactor is located; or

(2) Evidence indicates that the brucellosis reactor is from a herd that no longer presents a risk of spreading brucellosis, or is from a herd that is unlikely to be infected with brucellosis. Such evidence could include, but is not limited to, situations where:

(i) The brucellosis reactor is traced back to a herd that has been sold for slaughter in entirety;

(ii) The brucellosis reactor is traced back to a herd that is certified brucellosis free and is 100-percent vaccinated; or

(iii) The brucellosis reactor showed a low titer in the MCI test and is traced back to a dairy herd that is 100 percent vaccinated and has tested negative to the most recent brucellosis ring test required by this section for herds producing milk for sale.

(3) *Epidemiologic surveillance*—(i) *Adjacent herds.* All adjacent herds or other herds having contact with cattle in a herd known to be affected shall be placed under quarantine and have an approved individual herd plan in effect within 15 days after notification of brucellosis in the herd known to be affected; (ii) Epidemiologically traced

herds. All herds from which cattle are moved into a herd known to be affected and all herds which have received cattle from a herd known to be affected shall be placed under quarantine and have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd. (iii) Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

(b) *Herd infection rate*—(1) *Percentage of herds affected*. All cattle herds in the State or area must remain free of field strain *Brucella abortus* for 12 consecutive months. States or areas must have a cattle herd infection rate, based on the number of herds found to have brucellosis reactors within the State or area during any 12 consecutive months due to field strain *Brucella abortus* of 0.0 percent or 0 herds per 1,000.

(2) *Epidemiologic investigation*. Within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors have been found in any herd, State representatives or APHIS representatives shall investigate that herd to identify possible sources of brucellosis. All possible sources of brucellosis identified shall be contacted within an additional 15 days to determine appropriate action.

(3) All herds known to be affected shall have approved individual herd plans in effect within 15 days after notification by a State representative or APHIS representative of a brucellosis reactor in the herd. Each State shall ensure that such approved individual herd plans are effectively complied with, as determined by the Administrator.

(4) *Retaining Class Free status*. (i) If a single herd in a Class Free State is found to be affected with brucellosis, the State may retain its Class Free status if it meets the conditions of this paragraph. A State may retain its status in this manner only once during any 2-year period. The following conditions must be satisfied within 60 days of the date an animal in the herd is determined to be infected:

(A) The affected herd must be immediately quarantined, tested for brucellosis, and depopulated; and

(B) An epidemiological investigation must be performed and the investigation must confirm that brucellosis has not spread from the affected herd. All herds on premises adjacent to the affected herd (adjacent herds), all herds from which animals may have been brought into the affected herd (source herds), and all herds that may have had contact with or accepted animals from the affected herd (contact herds) must be epidemiologically investigated, and each of those herds must be placed under an approved individual herd plan. If the investigating epidemiologist determines that a herd blood test for a particular adjacent herd, source herd, or contact herd is not warranted, the epidemiologist must include that determination, and the reasons supporting it, in the individual herd plan.

(ii) After the close of the 60-day period following the date an animal in the herd is determined to be infected, APHIS will conduct a review to confirm that the requirements of paragraph (b)(4)(i) have been satisfied and that the State is in compliance with all other applicable provisions.

Complete herd test (CHT). An official swine brucellosis test of all swine on a premises that are 6 months of age or older and maintained for breeding purposes.

Confirmatory test. A follow-up test to verify any official test results. Confirmatory tests include the standard tube test, the Rivanol test, the complement fixation test (CF), the fluorescence polarization assay (FP assay), the particle concentration fluorescence immunoassay (PCFIA), the semen plasma test, and the standard plate test.

Dairy cattle. A bovine animal of a recognized dairy breed.

Designated epidemiologist. An epidemiologist selected by the State animal health official and the Veterinarian in Charge to perform the functions required. The regional epidemiologist and the APHIS brucellosis staff must concur in the selection and appointment of the designated epidemiologist.

Directly. Without unloading en route if moved in a means of conveyance, or without stopping if moved in any other manner.

Epidemiologist. A veterinarian who has received a master's degree in epidemiology or completed a course of study in epidemiology sponsored by the Animal and Plant Health Inspection Service, United States Department of Agriculture.

Epidemiology. A branch of medical science that deals with the incidence, distribution, and control of disease in the animal population.

Farm of origin. (a) Premises where cattle or bison are born and remain prior to movement from the premises but which are not used to assemble cattle or bison from any other premises for 4 months before such movement; or

(b) Premises where cattle or bison remain for not less than 4 months immediately before movement from the premises but which are not used to assemble cattle or bison from any other premises for 4 months before such movement.

Feral swine. Free-roaming swine. Formerly free-roaming swine could qualify for reclassification as domestic swine upon testing negative to an official swine brucellosis test after a period of at least 60 days' confinement in isolation from other feral swine.

Finished fed cattle. Cattle fattened on a ration of feed concentrates to reach a slaughter condition equivalent to that which would be attained on full feed with a high concentrate grain ration for 90 days.

Herd. (a) All animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm or ranch); or

(b) All animals under common ownership or supervision on two or more premises which are geographically separated but on which animals from the different premises have been interchanged or had contact with each other.

Herd blood test. (a) *Cattle and bison.* A blood test for brucellosis conducted in a herd on all cattle or bison which are

(1) 6 months of age or over and not official vaccinates, except steers and spayed heifers;

(2) Official calfhood vaccinates of any age which are parturient or postparturient;

(3) Official calfhood vaccinates of beef breeds or bison with the first pair

of permanent incisors fully erupted (2 years of age or over); and

(4) Official calfhood vaccinates of dairy breeds with partial eruption of the first pair of permanent incisors (20 months of age or over).

(b) [Reserved]

Herd known to be affected. Any herd in which any animal has been classified as a brucellosis reactor and which has not been released from quarantine.

Herd not known to be affected. Any herd in which no animal has been classified as a brucellosis reactor or any herd in which one or more animals have been classified as brucellosis reactors but which has been released from quarantine.

Herd of origin of swine. Any herd in which swine are farrowed and remain until movement or any herd in which swine remain for 30 days immediately prior to movement.

Interstate. From any State into or through any other State.

Market cattle identification test cattle. Cows and bulls 2 years of age or over which have been moved to recognized slaughtering establishments, and test-eligible cattle which are subjected to an official test for the purposes of movement at farms, ranches, auction markets, stockyards, quarantined feedlots, or other assembly points. Such cattle shall be identified by an official eartag and/or United States Department of Agriculture backtag prior to or at the first market, stockyard, quarantined feedlot, or slaughtering establishment they reach.

Market swine test (MST) reactor. Market swine test swine with a positive reaction to a swine brucellosis confirmatory test or other official test, if no confirmatory test is performed.

Market swine test swine. Sows and boars which have been moved to slaughtering establishments and sows and boars which are subjected to an official test for the purposes of movement at farms, ranches, auction markets, stockyards, or other assembly points.

Monitored-negative feral swine population. Feral swine indicating no evidence of infection (indicators would include positive blood tests or clinical signs, such as abortion) and originating

from a specified, geographically isolated area (a forest area, hunting preserve, or swamp, for example) may be classified by the designated epidemiologist as a monitored-negative feral swine population.

Moved. Shipped, transported, delivered, or received for movement, or otherwise aided, induced, or caused to be moved.

Moved (movement) in interstate commerce. Moved from the point of origin of the interstate movement to the animals' final destination, such as a slaughtering establishment or a farm for breeding or raising, and including any temporary stops for any purpose along the way, such as at a stockyard or dealer premises for feed, water, rest, or sale.

Official adult vaccinate. (a) Female cattle or female bison older than the specified ages defined for official calfhood vaccinate and vaccinated by an APHIS representative, State representative, or accredited veterinarian with a reduced dose approved brucella vaccine, diluted so as to contain at least 300 million and not more than 1 billion live cells per 2 mL dose of *Brucella abortus* Strain 19 vaccine or at the dosage indicated on the label instructions for other approved brucella vaccines, as part of a whole herd vaccination plan authorized jointly by the State animal health official and the Veterinarian in Charge; and

(b)(1) Permanently identified by a "V" hot brand high on the hip near the tailhead at least 5 by 5 centimeters (2 by 2 inches) in size, or by an official AV (adult vaccination) tattoo in the right ear preceded by the quarter of the year and followed by the last digit of the year; and

(2) Identified with an official eartag or individual animal registered breed association registration brand or individual animal registered breed association tattoo.

Official brand inspection certificate. A document issued by an official brand inspection agency in any State which requires such documents for movement of cattle.

Official brand recording agency. The duly constituted body authorized by a State or governmental subdivision thereof to administer laws, regula-

tions, ordinances or rules pertaining to the brand identification of cattle.

Official calfhood vaccinate. (a) Female cattle or female bison vaccinated while from 4 through 12 months of age by an APHIS representative, State representative, or accredited veterinarian with a reduced dose approved brucella vaccine containing at least 2.7 billion and not more than 10 billion live cells per 2 mL dose of *Brucella abortus* Strain 19 vaccine or at the dosage indicated on the label instructions for other approved brucella vaccines; and

(b) Permanently identified by a tattoo and by an official vaccination eartag in the right ear. However, if already identified with an official eartag prior to vaccination, an additional tag is not required. The tattoo must include the U.S. Registered Shield and "V," preceded by the quarter of the year and followed by the last digit of the year of vaccination. Individual animal registered breed association registration brands or individual animal registered breed association registration tattoos may be substituted for official eartags.

Official eartag. An identification tag providing unique identification for individual animals. An official eartag must bear the U.S. shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users. The official eartag must be tamper-resistant and have a high retention rate in the animal. Official eartags must adhere to one of the following numbering systems:

(a) National Uniform Eartagging System.

(b) Animal identification number (AIN).

(c) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in § 71.1 of this chapter, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.

(d) Any other numbering system approved by the Administrator for the identification of animals in commerce.

Official identification device or method.

A means of officially identifying an animal or group of animals using devices or methods approved by the Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority.

Official seal. A serially numbered, metal or plastic strip, consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and which cannot be reused if opened, or a serially numbered, self-locking button which can be used for this purpose.

Official swine tattoo. A tattoo, conforming to the six-character alpha-numeric National Tattoo System, that provides a unique identification for each herd or lot of swine.

Official test—(a) Classification of cattle and bison—(1) Standard card test. (i) A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by APHIS and the State in which the test is to be conducted and when conducted under the following circumstances:

(A) When conditions and time are such that no other test is available; or

(B) When the owner or the owner's agent requests it because of time or situation constraints; or

(C) In specifically approved stockyards when the State animal health official either:

(1) Designates the standard card test as the official test for determining the brucellosis disease status of cattle and bison in all specifically approved stockyards in the State. In these States, no other official test except the Buffered Acidified Plate Antigen test shall be used in specifically approved stockyards; or

(2) Designates the standard card test as the official test for determining the brucellosis disease status of non-vaccinated cattle or bison (the CITE® test may be designated as a supplemental test for non-vaccinated cattle or bison that test positive to the standard card test); and designates the standard card test as the official test for determining the brucellosis disease status of official vaccinates and the CITE® test, the

standard plate test, or the Rivanol test as supplemental tests for official vaccinates that test positive to the standard card test. If supplemental tests are conducted, cattle or bison that are positive to the standard card test shall be classified as brucellosis suspects if all of the supplemental tests conducted disclose a negative or suspect reaction, and shall be classified as brucellosis reactors if any one of the supplemental tests conducted has a positive reaction; or

(D) To test market cattle identification (MCI) program test samples. Cattle and bison which test positive to the BAPA test or RST under the MCI program must be retested using the standard card test or the standard plate or tube agglutination test.

(ii) Results of the standard card test also may be used to supplement the results of other official tests conducted in the cooperative State-Federal laboratory to give the designated epidemiologist additional information when classifying cattle and bison.

(iii) *Standard card test results are interpreted as either negative or positive.* A moderate to marked clumping agglutination reaction is a positive result. Test-eligible cattle and bison positive to the standard card test are classified as brucellosis reactors. Test-eligible cattle and bison negative to the standard card test are classified as brucellosis negative.

(2) *Standard tube test (STT) or standard plate test (SPT).* A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by APHIS and the State in which the test is to be conducted. Cattle and bison are classified according to the following agglutination reactions:

SPT OR STT CLASSIFICATION—OFFICIAL VACCINATES VACCINATED WITH A BRUCELLA ABORTUS STRAIN 19 APPROVED BRUCELLA VACCINE

Titer		Classification	
1:50	1:100	1:200	
—	—	—	Negative.
+	—	—	Do.
+	+	—	Do.
+	+	+	Suspect.
+	+	+	Do.
+	+	+	Do.

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SPT OR STT CLASSIFICATION—OFFICIAL VACCINATES VACCINATED WITH A BRUCELLA ABORTUS STRAIN 19 APPROVED BRUCELLA VACCINE—Continued

Titer			Classification
1:50	1:100	1:200	
+	+	+	Reactor.

– No agglutination.
I Incomplete agglutination.
+ Complete agglutination.

OFFICIAL VACCINATES VACCINATED WITH AN APPROVED BRUCELLA VACCINE OTHER THAN A BRUCELLA ABORTUS STRAIN 19 APPROVED BRUCELLA VACCINE

Titer			Classification
1:50	1:100	1:200	
–	–	–	Negative.
I	–	–	Suspect.
+	–	–	Do.
+	I	–	Do.
+	+	–	Reactor.
+	+	I	Do.
+	+	+	Do.

– No agglutination.
I Incomplete agglutination.
+ Complete agglutination.

ALL CATTLE AND BISON WHICH ARE NOT OFFICIAL VACCINATES

Titer			Classification
1:50	1:100	1:200	
–	–	–	Negative.
I	–	–	Suspect.
+	–	–	Do.
+	I	–	Do.
+	+	–	Reactor.
+	+	I	Do.
+	+	+	Do.

– No agglutination.
I Incomplete agglutination.
+ Complete agglutination.

(3) *Manual complement-fixation (CF) test.* A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by APHIS and the State in which the test is to be conducted. Cattle and bison are classified according to the following reactions:

(i) Cattle and bison which are not official vaccinates:

(A) Fifty percent fixation (2 plus) in a dilution of 1:20 or higher—brucellosis reactor;

(B) Fifty percent fixation (2 plus) in a dilution of 1:10 but less than 50 percent

fixation (2 plus) in a dilution of 1:20—brucellosis suspect;

(C) Less than 50 percent fixation (2 plus) in a dilution of 1:10—brucellosis negative;

(ii) Official vaccinates vaccinated with a *Brucella abortus* Strain 19 approved brucella vaccine:

(A) Twenty-five percent fixation (1 plus) in a dilution of 1:40 or higher—brucellosis reactor;

(B) Fifty percent fixation (2 plus) in a dilution of 1:10 but less than 25 percent fixation (1 plus) in a dilution of 1:40—brucellosis suspect;

(C) Less than 50 percent fixation (2 plus) in a dilution of 1:10—brucellosis negative.

(iii) Official vaccinates vaccinated with an approved brucella vaccine other than a *Brucella abortus* Strain 19 approved brucella vaccine:

(A) Fifty percent fixation (2 plus) in a dilution of 1:20 or higher—brucellosis reactor;

(B) Fifty percent fixation (2 plus) in a dilution of 1:10 but less than 50 percent fixation (2 plus) in a dilution of 1:20—brucellosis suspect;

(C) Less than 50 percent fixation (2 plus) in a dilution of 1:10—brucellosis negative.

(4) *Technicon automated complement-fixation test.* A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by APHIS and the State in which the test is to be conducted. Cattle and bison are classified according to the following reactions:

(i) Cattle and bison which are not official vaccinates:

(A) Fixation in a dilution of 1:10 or higher—brucellosis reactor;

(B) Fixation in a dilution of 1:5 but no fixation in a dilution of 1:10—brucellosis suspect;

(C) No fixation in a dilution of 1:5 or lower—brucellosis negative;

(ii) Official vaccinates vaccinated with a *Brucella abortus* Strain 19 approved brucella vaccine:

(A) Fixation in a dilution of 1:20 or higher—brucellosis reactor;

(B) Fixation in a dilution of 1:10 but no fixation in a dilution of 1:20—brucellosis suspect;

(C) Fixation in a dilution of 1:5 or less but no fixation in a dilution of 1:10—brucellosis negative.

(iii) Official vaccinates vaccinated with an approved brucella vaccine other than a *Brucella abortus* Strain 19 approved brucella vaccine:

(A) Fixation in a dilution of 1:10 or higher—brucellosis reactor;

(B) Fixation in a dilution of 1:5 but no fixation in a dilution of 1:10—brucellosis suspect;

(C) No fixation in a dilution of 1:5 or lower—brucellosis negative.

(5) *Rivanol* test. A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by APHIS and the State in which the test is to be conducted. Cattle and bison are classified according to the following agglutination reactions:

(i) Cattle and bison which are not official vaccinates:

(A) Complete agglutination at a titer of 1:25 or higher—brucellosis reactor;

(B) Less than complete agglutination at a titer of 1:25—brucellosis negative;

(ii) Official adult vaccinates more than 5 months after vaccination with a *Brucella abortus* Strain 19 approved brucella vaccine and official calfhood vaccinates vaccinated with a *Brucella abortus* Strain 19 approved brucella vaccine:

(A) Incomplete agglutination at a titer of 1:100 or higher—brucellosis reactor;

(B) Complete agglutination at a titer of 1:25 or higher when the manual or technicon automated complement-fixation test is not conducted—brucellosis reactor;

(C) Complete agglutination at a titer of 1:50 or less when the manual complement-fixation test or the technicon automated complement-fixation test is conducted and results in a classification of brucellosis suspect or brucellosis negative—brucellosis suspect;

(D) Less than complete agglutination at a titer of 1:25—brucellosis negative;

(iii) Official adult vaccinates less than 5 months after vaccination with a *Brucella abortus* Strain 19 approved brucella vaccine: Less than complete agglutination at the 1:50 titer—brucellosis negative.

(iv) Official vaccinates vaccinated with an approved brucella vaccine other than a *Brucella abortus* Strain 19 approved brucella vaccine:

(A) Complete agglutination at a titer of 1:25 or higher—brucellosis reactor;

(B) Less than complete agglutination at a titer of 1:25—brucellosis negative.

(6) *Semen plasma* test. A test to determine the brucellosis disease status of bulls used for artificial insemination when conducted in conjunction with an official serological test and according to instructions approved by APHIS and the State in which the test is to be conducted. The classification of such bulls shall be based on the maximum agglutination titer of either the official serological test or the semen plasma test.

(7) *Buffered acidified plate antigen (BAPA)* test. A test to determine the brucellosis disease status of test-eligible cattle and bison at recognized slaughtering establishments and specifically approved stockyards when conducted according to instructions approved by APHIS and the State in which the test is to be conducted. BAPA test results are interpreted as either negative or positive. Cattle and bison negative to the BAPA test are classified as brucellosis negative. Cattle and bison positive to the BAPA test shall be subjected to other official tests to determine their brucellosis classification.

(8) *Rapid screening test (RST)*. A test to determine the brucellosis disease status of test-eligible cattle and bison in cooperative State-Federal laboratories when conducted according to instructions approved by APHIS and the State in which the test is to be conducted. RST results are interpreted as either negative or positive. Cattle and bison negative to the RST are classified as brucellosis negative. Cattle and bison positive to the RST shall be subjected to other official tests to determine their brucellosis classification.

(9) *Concentration immunoassay technology (CITE®)* test. An enzyme immunoassay that may be used as a diagnostic supplement to the standard card test by designated epidemiologists determining the brucellosis disease status of cattle and bison. The test must be done in accordance with the

CITE® *Brucella abortus* Antibody Test Kit instructions, licensed by the United States Department of Agriculture and approved as of December 31, 1987, and incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AgriTech Systems, Inc., 100 Fore Street, Portland, ME 04101. Copies may be inspected at the Animal and Plant Health Inspection Service, Veterinary Services, Operational Support, 4700 River Road Unit 33, Riverdale, Maryland 20737–1231, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(10) *Particle concentration fluorescence immunoassay (PCFIA) test*. An automated serologic test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by APHIS. Cattle and bison are classified according to the following ratio between the test sample and a known negative sample (S/N ratio):

S/N ratio	Classification
Greater than .60	Negative.
Greater than .30 but less than or equal to .60.	Suspect.
.30 or less	Positive.

(11) *D-Tec® Brucella A test*. An automated serologic test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by APHIS. The degree of reactivity is measured by the ratio of the average optical density of the sample to that of the Negative Control (S/N) and is expressed as Percent Inhibition $(1-S/N) \times 100$. The brucellosis disease status of the animals is classified according to the following established criteria:

Percent inhibition	Classification
Less than or equal to 40 percent	Negative.
Greater than 40 percent and less than or equal to 70 percent.	Suspect.
Greater than 70 percent	Reactor.

(12) *Rapid Automated Presumptive (RAP) test*. An automated serologic test to detect the presence of *Brucella* antibodies in test-eligible cattle and bison. RAP test results are interpreted as either positive or negative; the results are interpreted and reported by a scanning autoreader that measures alterations in light transmission through each test well and the degree of agglutination present. Cattle and bison negative to the RAP test are classified as brucellosis negative; cattle and bison positive to the RAP test shall be subjected to other official tests to determine their brucellosis disease classification.

(13) *Fluorescence polarization assay (FP assay)*. An automated serologic test to determine the brucellosis status of test-eligible cattle and bison when conducted according to instructions approved by APHIS. FP assays are interpreted as either positive, negative, or suspect. A 10-microliter sample is used. If a sample reads <10 millipolarization units (mP) above the mean negative control, the sample is considered negative. If a sample reads >20 mP above the mean negative control, the sample is considered positive. Samples that read between 10 and 20 mP above the negative control mean should be retested using 20 microliters of sample. If the 20-microliter sample is >20 mP above the mean negative control, the sample is considered positive. If the 20-microliter sample is still in the 10 to 20 mP range above the mean negative control, the sample is considered suspect. If the 20-microliter sample is <10 mP above the mean negative control, the sample is considered negative. Cattle and bison negative to the FP assay are classified as brucellosis negative. Cattle and bison with positive FP assay results are classified as brucellosis reactors, while cattle and bison with suspect FP assay results are classified as brucellosis suspects.

(14) The evaluation of test results for all cattle and bison shall be the responsibility of a designated epidemiologist in each State. The designated epidemiologist shall consider the animal and herd history and other epidemiologic factors when determining the brucellosis classification of cattle and bison. Deviations from the brucellosis

classification criteria as provided in this definition of official test are acceptable when made by the designated epidemiologist.

(i) The designated epidemiologist may consider the results of CITE® tests when evaluating the results of standard card tests of cattle and bison.

(b) *Classification of swine*—(1) *Standard card test*. A test to determine the brucellosis disease status of swine. Standard card test results are interpreted as either negative or positive. A moderate to marked clumping agglutination reaction is a positive result. Swine negative to the standard card test are classified as brucellosis negative. Swine positive to the standard card test in a herd not known to be affected but negative to any other official test or bacteriological culture for *brucella* are classified as brucellosis suspects. Other swine positive to the standard card test are classified as brucellosis reactors.

(2) *Standard tube test*. A test to determine the brucellosis disease status of swine.

(i) If all of the following apply: (A) The swine are part of a herd not known to be affected; (B) No swine tested, individually or as part of a group, has a complete agglutination reaction at a dilution of 1:100 or higher; and (C) the swine are tested as part of a herd blood test or are part of a validated brucellosis-free herd, then the swine are classified according to the following agglutination reactions:

Titer		Classification	
1:25	1:50	1:100	
1	1-	-	Negative.
+	-	-	Do.
+	1	-	Do.
+	+	-	Do.
+	+	1	Do.

- No agglutination.
1 Incomplete agglutination.
+ Complete agglutination.

(ii) If any of the following apply: (A) The swine are part of a herd known to be affected; (B) Any swine tested, individually or as part of a group, has a complete agglutination reaction at a dilution of 1:100 or higher or; (C) The swine are not part of a validated brucellosis-free herd and are not being tested as part of a herd blood test, then

the swine are classified according to the following agglutination reactions:

Titer		Classification	
1:25	1:50	1:100	
1	-	-	Negative.
+	-	-	Reactor.
+	1	-	Do.
+	+	-	Do.
+	+	1	Do.
+	+	+	Do.

- No agglutination.
1 Incomplete agglutination.
+ Complete agglutination.

(3) *Particle concentration fluorescence immunoassay (PCFIA)*. An automated serologic test to determine the brucellosis disease status of test-eligible swine when conducted according to instructions approved by the Animal and Plant Health Inspection Service. Swine are classified according to the following ratios between the test sample and a known negative sample (S/N ratio):

S/N Ratio	Classification
0.71 or greater	Negative.
0.51 to 0.70	Suspect.
0.50 or less	Reactor.

(4) *Rapid Automated Presumptive (RAP) test*. An automated serologic test to detect the presence of *Brucella* antibodies in test-eligible swine. RAP test results are interpreted as either positive or negative; the results are interpreted and reported by a scanning autoreader that measures agglutination based on alterations in light transmission through each test well. Swine negative to the RAP test are classified as brucellosis negative; swine positive to the RAP test shall be subjected to other official tests to determine their brucellosis disease classification.

(5) *Fluorescence polarization assay (FP assay)*. An automated serologic test to determine the brucellosis status of test-eligible swine when conducted according to instructions approved by APHIS. FP assays are interpreted as either positive, negative, or suspect. A 40-microliter sample is used. If a sample reads <10 millipolarization units (mP) above the mean negative control, the sample is considered negative. If a sample reads >20 mP above the mean

negative control, the sample is considered positive. Samples that read between 10 and 20 mP above the negative control mean must be retested using 40 microliters of sample. If the 40-microliter sample is >20 mP above the mean negative control, the sample is considered positive. If the 40-microliter sample is still in the 10 to 20 mP range above the mean negative control, the sample is considered suspect. If the 40-microliter sample is <10 mP above the mean negative control, the sample is considered negative. Swine with negative FP assay results are classified as brucellosis negative. Swine with positive FP assay results are classified as brucellosis reactors, while swine with suspect FP assay results are classified as brucellosis suspects.

(6) The evaluation of test results for all swine shall be the responsibility of a designated epidemiologist in each State. The designated epidemiologist shall consider the animal and herd history and other epidemiologic factors when determining the brucellosis classification of swine. Deviations from the brucellosis classification criteria as provided in this definition of official test are acceptable when made by the designated epidemiologist.

Official vaccinate. An official calfhood vaccinate or an official adult vaccinate. The accredited veterinarian, State representative or APHIS representative who performs the vaccination must forward a completed official vaccination certificate for each animal vaccinated to the State animal health official of the State in which the animal was vaccinated.

Official vaccination eartag. An APHIS approved identification eartag conforming to the alpha-numeric National Uniform Eartagging System which provides unique identification for each animal. The eartag shall have a "V" followed by 2 letters and 4 numbers. States which require more official vaccination eartags than the number of combinations available in the "V" series of tags shall use a "T" or "S" followed by 2 letters and 4 numbers. Duplicate reissue of official vaccination eartags shall not be made more often than once each 15 years.

Originate. (a) Animals will have the status of the herd from which they are moved if:

(1) They were born and maintained in the herd since birth; or

(2) They have been in the herd for at least 120 days.

(b) Animals will have the status of the State or area from which they are moved if:

(1) They were born and maintained in the State or area since birth; or

(2) They were previously moved from a State or area of equal or higher class to the State or area; or

(3) They were previously moved from a State or area of lower class to the State or area where they are now located and have been in the new State or area for at least 120 days.

(c) Cattle penned in a specifically approved stockyard with cattle from a lower class State or area, in violation of the requirements set forth in § 71.20 of this chapter, shall have the status of the State or area of lower class for any subsequent movement.

Parturient. Visibly prepared to give birth or within 2 weeks of giving birth (springers).

Permit. An official document (VS Form 1-27 or a State form which contains the same information but not a "permit for entry" or "'S' brand permit") issued by an APHIS representative, State representative, or accredited veterinarian which lists the owner's name and address, points of origin and destination, number of animals covered, purpose of the movement, any reactor tag number, and one of the following: The official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, United States Department of Agriculture backtag (when applied serially, only the beginning and the ending numbers need be recorded), individual animal registered breed association registration number, or similar individual identification. (A new permit is required for each change in destination. However, permits accompanying cattle or bison to an approved intermediate handling facility may list either the approved intermediate handling facility, a quarantined feedlot or

a recognized slaughtering establishment as the point of destination. If the permit lists a quarantined feedlot or a recognized slaughtering establishment as the point of destination, then the permit must list the approved intermediate handling facility as a temporary stopping point, and no additional permit is required for the subsequent movement of the cattle or bison to the quarantined feedlot or to the recognized slaughtering establishment.)

Permit for entry. A premovement authorization for entry of cattle into a State from the State animal health official of the State of destination. It may be oral or written.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity.

Postparturient. Having given birth.

Purebred registry association. A swine breed association formed and perpetuated for the maintenance of records of purebreeding of swine species for a specific breed whose characteristics are set forth in Constitutions, By-Laws, and other rules of the association.

Qualified herd. (a) *Qualification.* (1) Any herd of cattle or bison which is in a quarantined area, not known to be affected, and negative to two consecutive herd blood tests. The first of these two herd blood tests shall be conducted not more than 240 days nor less than 120 days prior to the date of classification as a qualified herd. The second herd blood test may not be conducted less than 90 days nor more than 150 days after the first test. Additionally, the second herd blood test must be within 120 days of the date of classification as a qualified herd; or

(2) Any certified brucellosis-free herd in a quarantined area which is negative to a herd blood test 120 days before or after designation of the area as a quarantined area.

(b) *Requalification.* In order to remain a qualified herd, a herd must be negative to successive requalifying herd blood tests. Each requalifying test shall be conducted not more than 120 days from the date of the preceding herd blood test. All cattle or bison added to a qualified herd must be included in two successive herd blood

tests of the qualified herd to qualify as cattle or bison from the qualified herd.

Quarantined area. An area that does not meet the criteria for classification as Class Free, Class A, Class B, or Class C.

*Quarantined feedlot.*¹ A confined area under State quarantine approved jointly by the State animal health official and the Veterinarian in Charge. Approval will be granted only after a State representative or APHIS representative inspects the confined area and determines that all cattle and bison are secure and isolated from contact with all other cattle and bison, that there are facilities for identifying cattle and bison, and that there is no possibility of brucellosis being mechanically transmitted from the confined area. The quarantined feedlot shall be maintained for feeding cattle and bison for slaughter, with no provisions for pasturing or grazing. All cattle and bison in a quarantined feedlot, except steers and spayed heifers, shall be treated as brucellosis exposed.

(a) All cattle and bison, except steers and spayed heifers, leaving the quarantined feedlot must (1) Be accompanied by a permit and move directly to a recognized slaughtering establishment; or (2) Be "S" branded and accompanied by an "S" brand permit and move directly to an approved intermediate handling facility and then directly to another quarantined feedlot or a recognized slaughtering establishment; or (3) Be accompanied by a permit issued by the State animal health official and move directly to another quarantined feedlot; or (4) After being "S" branded at the quarantined feedlot, be accompanied by an "S" brand permit and move directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and bison and then directly to a recognized slaughtering establishment or another quarantined feedlot; or (5) After being "S" branded at the quarantined feedlot, be accompanied by an "S" brand permit and move directly to a specifically approved stockyard approved to

¹ A list of quarantined feedlots in any State may be obtained from the State animal health official, a State representative, or an APHIS representative.

receive brucellosis exposed cattle and bison and then directly to an approved intermediate handling facility and then directly to another quarantined feedlot or a recognized slaughtering establishment. However, finished fed cattle moving directly to a recognized slaughtering establishment are exempt from the permit/"S" brand permit requirement.

(b) The State animal health official and the Veterinarian in Charge shall establish procedures for accounting for all cattle and bison entering or leaving quarantined feedlots.

Quarantined pasture. A confined grazing area under State quarantine approved by the State animal health official, Veterinarian in Charge and the Administrator. A justification of the need for the quarantined pasture must be prepared by the State animal health official and/or Veterinarian in Charge and submitted to the Administrator. An intensified brucellosis eradication effort which produces large numbers of brucellosis exposed cattle or bison or official adult vaccinates needing the grazing period to reach slaughter condition would be an acceptable justification. Approval will be granted only after a State representative or APHIS representative inspects the confined grazing area and determines that all cattle and bison are secure and isolated from contact with all other cattle and bison, that there are facilities for identifying the cattle and bison, and that there is no possibility of brucellosis being mechanically transmitted from the confined grazing area. The quarantined pasture shall be for utilizing available forage for growth or to improve flesh condition of cattle or bison. No cattle or bison may be moved interstate into these quarantined pastures, which shall be restricted for use by cattle or bison originating within the State. All cattle or bison shall be of the same sex, except that neutered cattle and bison may share the quarantined pasture. All cattle and bison, except steers and spayed heifers, must be "S" branded upon entering the quarantined pasture. All cattle and bison, except steers and spayed heifers, leaving the quarantined pasture must move directly to a recognized slaughtering establishment or quarantined feedlot,

or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment. The movement shall be in accordance with established procedures for handling brucellosis exposed cattle and bison, including issuance of "S" brand permits prior to movement. The State animal health official and Veterinarian in Charge shall establish procedures for accounting for all cattle and bison entering and leaving the quarantined pasture. All brucellosis exposed cattle and bison must vacate the premises on or before the expiration of approval, which may not last longer than 10 months.

*Recognized slaughtering establishment.*² Any slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State meat inspection act.

Rodeo bulls. Male cattle kept solely for performance at rodeos.

"S" branded. Branding with a hot iron the letter "S" high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size.

"S" brand permit. A document prepared at the point of origin which lists the points of origin and destination, the number of animals covered, the purpose of movement, and one of the following: The official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, United States Department of Agriculture backtag (when applied serially, only the beginning and the ending numbers need be recorded), or similar individual identification. If the document is prepared at a quarantined feedlot, it shall be prepared by an accredited veterinarian, a State representative, or an individual designated for that purpose by the State animal health official. If the document

²A list of recognized slaughtering establishments in any State may be obtained from an APHIS representative, the State animal health official, or a State representative.

is prepared at any other point of origin, it shall be prepared by an accredited veterinarian, State representative, or APHIS representative. (A new "S" brand permit is required for each change in destination. However, "S" brand permits accompanying cattle or bison to approved intermediate handling facilities may list either the approved intermediate handling facility, a quarantined feedlot, or a recognized slaughtering establishment as the point of destination. If the "S" brand permit lists a quarantined feedlot or a recognized slaughtering establishment as the point of destination, the "S" brand permit must list the approved intermediate handling facility as a temporary stopping point, and no additional "S" brand permit is required for the subsequent movement of the cattle or bison from the approved intermediate handling facility to the quarantined feedlot or to the recognized slaughtering establishment. Subsequent movements from the quarantined feedlot shall be subject to requirements set forth in the definition of "quarantined feedlot" in this section.)

Sow. A female swine which is parturient or postparturient.

Specifically approved stockyard.³ Premises where cattle or bison are assembled for sale or sale purposes and which meet the standards set forth in § 71.20 of this chapter and are approved by the Administrator.

State. Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands or any other territory or possession of the United States.

State animal health official. The State official responsible for livestock and poultry disease control and eradication programs.

State representative. An individual employed in animal health work by a State or a political subdivision thereof and authorized by such State or political subdivision to perform the function involved under a memorandum of

understanding with the United States Department of Agriculture.

Successfully closed case. Follow up of an MCI reactor traceback with an epidemiologic investigation which results in brucellosis testing or quarantine of the herd of origin, or a determination by a designated brucellosis epidemiologist that justification exists for not testing or quarantining the herd of origin.

Swine brucellosis. The communicable disease of swine caused by *Brucella suis* (*B. suis*) biovar 1 or 3.

Test-eligible cattle and bison. For purposes of interstate movement, test-eligible cattle and bison are:

(a) Cattle and bison which are not official vaccinates and which have lost their first pair of temporary incisors (18 months of age or over), except steers and spayed heifers;

(b) Official calfhood vaccinates 18 months of age or over which are parturient or postparturient;

(c) Official calfhood vaccinates of beef breeds or bison with the first pair of permanent incisors fully erupted (2 years of age or over); and

(d) Official calfhood vaccinates of dairy breeds with partial eruption of the first pair of permanent incisors (20 months of age or over).

United States Department of Agriculture backtag. A backtag issued by APHIS that provides unique identification for each animal.

Validated brucellosis-free herd. (a) A swine herd not known to be infected with swine brucellosis, located in a validated brucellosis-free State; or

(b) A swine herd in a State that has not been validated as brucellosis-free, provided the herd meets the conditions for validation, as follows:

(1) **Validation.** A swine herd may be validated as brucellosis-free if it has been found brucellosis negative after either a complete-herd test (CHT) or an incremental CHT. The incremental CHT may be conducted by testing all breeding swine 6 months of age or older with negative results within 365 days, either in four 25-percent increments, with those tests being conducted on the 90th, 180th, 270th, and 360th days of the testing cycle, or in 10-percent increments every 25-35 days until 100 percent of those swine have been tested. In

³Notices containing lists of specifically approved stockyards are published in the FEDERAL REGISTER. Lists of specifically approved stockyards also may be obtained from the State animal health official, State representatives, or APHIS representatives.

cases where unforeseen circumstances warrant such action, the Administrator may approve an extension of up to 15 days of the date on which a test under the 25-percent incremental herd test is to be conducted, thus allowing a test to be conducted no later than the 105th, 195th, 285th, or 375th day of the testing cycle. No swine may be tested twice during the testing cycle to comply with either the 25 percent requirement or the 10 percent requirement. No further testing is required once 100 percent of the breeding swine have been tested. After all breeding swine have tested brucellosis negative, a herd may be validated as brucellosis-free. Unless the Administrator has approved an alternative testing schedule, which might extend the testing cycle, a herd retains validated brucellosis-free status for a maximum of 365 days.

(2) *Maintaining validation.* Validation may be continuously maintained if a complete herd test (CHT) is performed once every 365 days, with negative results, or an incremental CHT is performed. The incremental CHT may be conducted by testing all breeding swine 6 months of age or older, with negative results, within 365 days in either four 25-percent increments, with those tests being conducted on the 90th, 180th, 270th, and 360th days of the testing cycle, or in 10-percent increments every 25–35 days until 100 percent of those swine have been tested. In cases where unforeseen circumstances warrant such action, the Administrator may approve an alternative testing schedule under which the 25 percent or 10 percent incremental CHT would be completed, with negative results, within 420 days, during which time the herd's validated brucellosis-free status would be continued. No swine may be tested twice during the testing cycle to comply with these requirements. No further testing is required once 100 percent of the breeding swine have been tested.

Validated brucellosis-free State. A State may apply for validated-free status when:

(a) Any herd found to have swine brucellosis during the 2-year qualification period preceding the application has been depopulated. More than one finding of a swine brucellosis-infected herd

during the qualification period disqualifies the State from validation as brucellosis-free; and

(b) During the 2-year qualification period, the State has completed surveillance, annually, as follows:

(1) *Complete herd testing.* Subjecting all swine in the State that are 6 months of age or older and maintained for breeding purposes to an official swine brucellosis test; or

(2) *Market swine testing.* Subjecting 20 percent of the State's swine 6 months of age or older and maintained for breeding purposes to an official swine brucellosis test, and demonstrating successful traceback of at least 80 percent of market swine test (MST) reactors to the herd of origin. Blood samples may be collected from MST swine if the swine can be identified to their herd of origin, in accordance with § 71.19(b) of this subchapter. All MST reactor herds are subject to a CHT within 30 days of the MST laboratory report date, as determined by a designated epidemiologist; or

(3) *Statistical analysis.* Demonstrating, by a statistical analysis of all official swine brucellosis test results (including herd validation, MST, change-of-ownership, diagnostic) during the 2-year qualification period, a surveillance level equivalent or superior to CHT and MST testing programs discussed in this paragraph.

(c) To maintain validation, a State must annually survey at least 5 percent of its breeding swine, and demonstrate traceback to herd of origin of at least 80 percent of all MST reactors. A State must demonstrate its continuing ability to meet the criteria set forth in paragraph (c) of this definition within 36–40 months of receiving validated brucellosis-free State status to retain that status.

Veterinarian in Charge. The veterinary official of the Animal and Plant Health Inspection Service, United States Department of Agriculture, who is assigned by the Administrator to supervise and perform the official animal health work of the Animal and Plant Health Inspection Service in the State concerned.

Whole herd vaccination. The vaccination of all female cattle and female bison 4 months of age or over in a herd

when authorized by the State animal health official and the Veterinarian in Charge, and conducted in accordance with the definitions of official adult vaccinate and official calfhood vaccinate.

(Approved by the Office of Management and Budget under control number 0579-0047)

[51 FR 32580, Sept. 12, 1986]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 78.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 78.2 Handling of certificates, permits, and “S” brand permits for interstate movement of animals.

(a) Any certificate, permit, or “S” brand permit required by this part for the interstate movement of animals shall be delivered to the person moving the animals by the shipper or shipper’s agent at the time the animals are delivered for movement and shall accompany the animals to their destination and be delivered to the consignee or the person receiving the animals.

(b) The APHIS representative, State representative, or accredited veterinarian issuing a certificate or permit required for the interstate movement of animals under this part, except for permits for entry and “S” brand permits, shall forward a copy thereof as follows:

(1) A copy of each certificate shall be forwarded to the State animal health official of the State of destination, or to the State animal health official of the State of origin for forwarding to the State of destination; or

(2) A copy of each permit shall be forwarded to the State animal health official of the State of destination.

(Approved by the Office of Management and Budget under control number 0579-0047)

[51 FR 32580, Sept. 12, 1986, as amended at 56 FR 54533, Oct. 22, 1991; 56 FR 58639, Nov. 21, 1991]

§ 78.3 Handling in transit of cattle and bison moved interstate.

Cattle and bison moving interstate, except cattle and bison moved directly to a recognized slaughtering establishment, approved intermediate handling facility, or quarantined feedlot, shall

be moved only in a means of conveyance which has been cleaned in accordance with §§ 71.5, 71.7, 71.10, and 71.11 of this chapter and, if unloaded in the course of such movement, shall be handled only in pens cleaned in accordance with the provisions of §§ 71.4, 71.7, 71.10, and 71.11 of this chapter.

§ 78.4 [Reserved]

Subpart B—Restrictions on Interstate Movement of Cattle Because of Brucellosis

§ 78.5 General restrictions.

Cattle may not be moved interstate except in compliance with this subpart.

§ 78.6 Steers and spayed heifers.

Steers and spayed heifers may be moved interstate without restriction under this subpart.

§ 78.7 Brucellosis reactor cattle.

(a) *Destination.* Brucellosis reactor cattle may be moved interstate only for immediate slaughter as follows:

(1) Directly to a recognized slaughtering establishment;

(2) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or

(3) From a farm of origin directly to a specifically approved stockyard approved to receive brucellosis reactors and then

(i) Directly to a recognized slaughtering establishment; or

(ii) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment.

(b) *Identification.* Brucellosis reactor cattle must be individually identified prior to moving interstate by attaching to the left ear a metal tag bearing a serial number and the inscription “U.S. Reactor,” or a metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors, and must be:

(1) “B” branded (as defined in § 78.1); or

(2) Accompanied directly to slaughter by an APHIS or State representative; or

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(3) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying permit.

(c) *Permit.* Brucellosis reactor cattle moving interstate shall be accompanied to destination by a permit.

(d) *Marking of records.* Each person moving brucellosis reactor cattle interstate shall, in the course of interstate movement, plainly write or stamp the words “Brucellosis Reactor” upon the face of any document that person prepares in connection with such movement.

(e) *Segregation en route.* Brucellosis reactor cattle shall not be moved interstate in any means of conveyance containing animals which are not brucellosis reactors unless all the animals are for immediate slaughter or unless the brucellosis reactor cattle are kept separate from the other animals by a partition securely affixed to the sides of the means of conveyance.

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§ 78.8 Brucellosis exposed cattle.

Brucellosis exposed cattle may be moved interstate only as follows:

(a) *Movement to recognized slaughtering establishments.* (1) Finished fed cattle from a quarantined feedlot may be moved interstate

(i) Directly to a recognized slaughtering establishment without further restriction under this part; or

(ii) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if accompanied by a permit or “S” brand permit.

(2) Brucellosis exposed cattle may be moved interstate directly to a recognized slaughtering establishment if such cattle are:

(i) Individually identified by an official eartag or a United States Department of Agriculture backtag;

(ii) Accompanied by a permit or “S” brand permit; and

(iii)(A) “S” branded before leaving the premises from which they are to be moved interstate; or

(B) “B” branded when a claim for indemnity is made under part 51 of this chapter; or

(C) Official adult vaccinates; or

(D) Accompanied directly to slaughter by an APHIS or State representative; or

(E) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

The official seal numbers must be recorded on the accompanying permit or “S” brand permit.

(3) Brucellosis exposed cattle may be moved interstate directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if such cattle are:

(i) Individually identified by an official eartag or a United States Department of Agriculture backtag;

(ii) Accompanied by a permit or “S” brand permit; and

(iii)(A) “S” branded before leaving the premises from which they are to be moved interstate; or

(B) “B” branded when a claim for indemnity is made under part 51 of this chapter; or

(C) Official adult vaccinates; or

(D) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying permit or “S” brand permit.

(4) Brucellosis exposed cattle moving to slaughter from a farm of origin may be moved directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to a recognized slaughtering establishment if such cattle are:

(i) Individually identified by an official eartag or United States Department of Agriculture backtag;

(ii) Accompanied by a permit or “S” brand permit; and

(iii)(A) “S” branded before leaving the premises from which they are to be moved interstate; or

(B) “B” branded when a claim for indemnity is made under part 51 of this chapter; or

(C) Official adult vaccinates; or

(D) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

The official seal numbers must be recorded on the accompanying permit or “S” brand permit.

(5) Brucellosis exposed cattle moving to slaughter from a farm of origin may be moved directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if such cattle are:

(i) Individually identified by an official eartag or United States Department of Agriculture backtag;

(ii) Accompanied by a permit or “S” brand permit; and

(iii)(A) “S” branded before leaving the premises from which they are to be moved interstate; or

(B) “B” branded when a claim for indemnity is made under part 51 of this chapter; or

(C) Official adult vaccinates; or

(D) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying permit or “S” brand permit.

(b) *Movement to quarantined feedlots.* Brucellosis exposed cattle for which no claim for indemnity is being made by the owner under part 51 of this chapter may be moved interstate directly to a quarantined feedlot, or from a farm of origin directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to a quarantined feedlot, or from a farm of origin directly to an approved intermediate handling facility and then directly to a quarantined feedlot,

or from a farm of origin directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to an approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are:

(1) Individually identified by an official eartag or a United States Department of Agriculture backtag;

(2) Accompanied by a permit or “S” brand permit; and

(3)(i) “S” branded before leaving the premises from which they are to be moved interstate; or

(ii) Official adult vaccinates; or

(iii) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying permit or “S” brand permit.

(c) *Movement other than in accordance with paragraphs (a) and (b) of this section.* Brucellosis exposed cattle for which no claim for indemnity is being made by the owner under part 51 of this chapter also may be moved interstate in accordance with § 78.10 and as follows:

(1) Such brucellosis exposed cattle from herds known to be affected other than female cattle which originate in Class B States or areas or Class C States or areas may be moved interstate if the cattle are:

(i) Under 6 months of age and weaned from brucellosis reactors or brucellosis exposed cows not less than 30 days immediately preceding interstate movement; or

(ii) Under 6 months of age and nursing brucellosis exposed cows in a herd subjected to a herd blood test within 10 days prior to interstate movement; or

(iii) Official vaccinates under 1 year of age from a herd following an approved individual herd plan.

(2) Cattle moved interstate from a farm of origin directly to a specifically approved stockyard in accordance with § 78.9(b)(3)(iii), 78.9(c)(3)(iii), or 78.9(d)(3) of this part and subsequently determined to be brucellosis exposed may be moved interstate directly back to the

farm of origin under the following conditions:

(i) Prior to interstate movement, State representatives of the State in which the cattle are located and the State of destination advise APHIS that such movement would not be contrary to the laws and regulations of their respective States;

(ii) Prior to interstate movement, the State representative of the State of destination agrees to quarantine the cattle on arrival and to require that all test-eligible cattle on the farm of origin be subjected to an official test; and

(iii) The cattle are accompanied to the farm of origin by a permit.

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§ 78.9 Cattle from herds not known to be affected.

Male cattle which are not test eligible and are from herds not known to be affected may be moved interstate without further restriction. Female cattle which are not test eligible and are from herds not known to be affected may be moved interstate only in accordance with § 78.10 of this part and this section. Test-eligible cattle which are not brucellosis exposed and are from herds not known to be affected may be moved interstate only in accordance with § 78.10 and as follows:

(a) *Class Free States/areas.* Test-eligible cattle which originate in Class Free States or areas, are not brucellosis exposed, and are from a herd not known to be affected may be moved interstate from Class Free States or areas only as specified below:

(1) *Movement to recognized slaughtering establishments.* (i) Such cattle may be moved interstate directly to a recognized slaughtering establishment or directly to a specifically approved stockyard and then directly to a recognized slaughtering establishment without restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility and then directly to a recognized

slaughtering establishment if accompanied by a permit.

(iii) Such cattle may be moved interstate from other than a farm of origin directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if such cattle are accompanied by a permit.

(2) *Movement to quarantined feedlots.* Such cattle may be moved interstate without restriction under this subpart directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to an approved intermediate handling facility and then directly to a quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot.

(3) *Movement other than in accordance with paragraphs (a)(1) and (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (a)(1) and (2) of this section only if:

(i) Such cattle are moved interstate from a farm of origin directly to a specifically approved stockyard; or

(ii) Such cattle are moved interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premises owned, leased, or rented by the same individual; or

(iii) Such cattle are moved interstate accompanied by a certificate which states, in addition to the items specified in § 78.1, that the cattle originated in a Class Free State or area.

(b) *Class A States/areas.* Test-eligible cattle which originate in Class A States or areas, are not brucellosis exposed, and are from a herd not known to be affected may be moved interstate from Class A States or areas only as specified below:

(1) *Movement to recognized slaughtering establishments.* (i) Such cattle may be moved interstate from a farm of origin or nonquarantined feedlot directly to a recognized slaughtering establishment or directly to a specifically approved

stockyard and then directly to a recognized slaughtering establishment without restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility without restriction under this subpart.

(iii) Such cattle from other than a farm of origin or nonquarantined feedlot may be moved interstate directly to a recognized slaughtering establishment or directly to a specifically approved stockyard and then directly to a recognized slaughtering establishment if identity to the Class A State or area is maintained by means of identification tag numbers appearing on sale records showing the consignor or by penning cattle from the farm or State or area apart from other animals.

(iv) Such cattle from other than a farm of origin may be moved interstate accompanied by a permit.

(A) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or

(B) Directly to a specifically approved stockyard and then directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment.

(2) Movement to quarantined feedlots.

(i) Such cattle may be moved interstate from a farm of origin directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to an approved intermediate handling facility and then directly to a quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot, if the identity of the farm of origin of the cattle is maintained by means of identification tag numbers appearing on sale records showing the consignor or by penning cattle from the farm of origin apart from other animals.

(ii) Such cattle from other than a farm of origin may be moved interstate directly to a quarantined feedlot or directly to a specifically approved stockyard and then directly to a quarantined feedlot if identity to the Class A State or area is maintained by

means of identification tag numbers appearing on sale records showing the consignor or by penning cattle from one farm or State or area apart from other animals.

(3) *Movement other than in accordance with paragraphs (b)(1) and (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (b)(1) and (2) of this section only if:

(i) Such cattle originate in a certified brucellosis-free herd and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, that the cattle originated in a certified brucellosis-free herd; or

(ii) Such cattle are negative to an official test within 30 days prior to such interstate movement and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(iii) Such cattle are moved interstate from a farm of origin directly to a specifically approved stockyard and are subjected to an official test upon arrival at the specifically approved stockyard prior to losing their identity with the farm of origin; or

(iv) Such cattle are moved interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premises owned, leased, or rented by the same individual.

(c) *Class B States/areas.* Test-eligible cattle which originate in Class B States or areas, are not brucellosis exposed, and are from a herd not known to be affected may be moved interstate from Class B States or areas only under the conditions specified below:

(1) *Movement to recognized slaughtering establishments.* (i) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a recognized slaughtering establishment without restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility without restriction under this subpart.

(iii) Such cattle may be moved interstate from a nonquarantined feedlot directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if they are accompanied by a permit or “S” brand permit.

(iv) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a specifically approved stockyard and then to a recognized slaughtering establishment if:

(A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied to slaughter by a certificate or “S” brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They originate from a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or

(C) They are “S” branded at the specifically approved stockyard, accompanied by an “S” brand permit, and moved directly to a recognized slaughtering establishment; or

(D) They are moved from the specifically approved stockyard accompanied by an “S” brand permit and in vehicles closed with official seals applied and removed by an APHIS representative, a State representative, an accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

The official seal numbers must be recorded on the accompanying “S” brand permit.

(v) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a specifically approved stockyard and then to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if:

(A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied by an “S” brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They originate from a certified brucellosis-free herd, identity to the certified brucellosis-free herd is main-

tained, and they are accompanied by an “S” brand permit; or

(C) They are “S” branded at the specifically approved stockyard, accompanied by an “S” brand permit, and moved directly to an approved intermediate handling facility; or

(D) They are accompanied by an “S” brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying “S” brand permit.

(vi) Such cattle from other than a farm of origin or a nonquarantined feedlot may be moved interstate to a recognized slaughtering establishment only if:

(A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate or “S” brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They originate from a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or

(C) They are “S” branded, accompanied by an “S” brand permit, and moved directly to a recognized slaughtering establishment; or

(D) They are accompanied by an “S” brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, a State representative, an accredited veterinarian, or by an individual authorized for this purpose by an APHIS representative.

The official seal numbers must be recorded on the accompanying “S” brand permit.

(vii) Such cattle from other than a farm of origin or a nonquarantined feedlot may be moved interstate to an approved intermediate handling facility and then directly to a recognized slaughtering establishment only if:

(A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by a permit or “S” brand permit which

states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They originate from a certified brucellosis-free herd, identity to the certified brucellosis-free herd is maintained, and they are accompanied by an "S" brand permit; or

(C) They are "S" branded, accompanied by an "S" brand permit, and moved directly to an approved intermediate handling facility; or

(D) They are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying "S" brand permit.

(2) *Movement to quarantined feedlots.*

(i) Such cattle may be moved interstate from a farm of origin directly to:

(A) A quarantined feedlot if such cattle are "S" branded upon arrival at the quarantined feedlot; or

(B) A specifically approved stockyard and then directly to a quarantined feedlot or directly to an approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are "S" branded upon arrival at the specifically approved stockyard and are accompanied to the quarantined feedlot by an "S" brand permit; or

(C) An approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are "S" branded upon arrival at the approved intermediate handling facility and are accompanied to the quarantined feedlot by an "S" brand permit; or

(D) A quarantined feedlot, a specifically approved stockyard and then directly to a quarantined feedlot, or an approved intermediate handling facility and then directly to a quarantined feedlot if the cattle are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal

numbers must be recorded on the accompanying "S" brand permit.

(ii) Such cattle from other than a farm of origin may be moved interstate to a quarantined feedlot if:

(A) They are negative to an official test within 30 days prior to such movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They are "S" branded, accompanied by an "S" brand permit, and moved directly to a quarantined feedlot; or

(C) They are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying "S" brand permit.

(3) *Movement other than in accordance with paragraphs (c)(1) and (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (c)(1) and (2) of this section only if:

(i) Such cattle originate in a certified brucellosis-free herd and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, that the cattle originated in a certified brucellosis-free herd; or

(ii) Such cattle are negative to an official test within 30 days prior to interstate movement, have been issued a permit for entry, and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(iii) Such cattle are moved interstate from a farm of origin directly to a specifically approved stockyard and are subjected to an official test upon arrival at the specifically approved stockyard prior to losing their identity with the farm of origin; or

(iv) Such cattle are moved interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premises owned, leased or rented by the same individual, and (A)

The cattle being moved originate from a herd in which (1) All the cattle were negative to a herd blood test within 1 year prior to the interstate movement; (2) Any cattle added to the herd after such herd blood test were negative to an official test within 30 days prior to the date the cattle were added to the herd; (3) None of the cattle in the herd have come in contact with any other cattle; and (B) The cattle are accompanied interstate by a document which states the dates and results of the herd blood test and the name of the laboratory in which the official tests were conducted.

(v) The State animal health officials of the State of origin and State of destination may waive the requirements of paragraph (c)(3)(iv) of this section in writing.

(d) *Class C States/areas.* All female cattle and test-eligible male cattle which originate in Class C States or areas, are not brucellosis exposed, and are from a herd not known to be affected may be moved interstate from Class C States or areas only under the conditions specified below:

(1) *Movement to recognized slaughtering establishments.* (i) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a recognized slaughtering establishment without restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility without restriction under this subpart.

(iii) Such cattle may be moved interstate from a nonquarantined feedlot directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if they are accompanied by a permit or "S" brand permit.

(iv) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a specifically approved stockyard and then to a recognized slaughtering establishment if:

(A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied by a certificate or "S" brand permit which states, in addition to the items

specified in § 78.1, the test dates and results of the official tests; or

(B) They originate from a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or

(C) They are "S" branded at the specifically approved stockyard, accompanied by an "S" brand permit, and moved directly to a recognized slaughtering establishment; or

(D) They are moved from the specifically approved stockyard accompanied by an "S" brand permit and in vehicles closed with official seals applied and removed by an APHIS representative, a State representative, an accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

The official seal numbers must be recorded on the accompanying "S" brand permit.

(v) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a specifically approved stockyard and then to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if:

(A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied by an "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They originate from a certified brucellosis-free herd, identity to the certified brucellosis-free herd is maintained, and they are accompanied by an "S" brand permit; or

(C) They are "S" branded at the specifically approved stockyard, accompanied by an "S" brand permit, and moved directly to an approved intermediate handling facility; or

(D) They are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying "S" brand permit.

(vi) Such cattle from other than a farm of origin or a nonquarantined

feedlot may be moved interstate to a recognized slaughtering establishment only if:

(A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They originate from a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or

(C) They are "S" branded, accompanied by an "S" brand permit, and moved directly to a recognized slaughtering establishment; or

(D) They are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, a State representative, an accredited veterinarian, or by an individual authorized for this purpose by the APHIS representative.

The official seal numbers must be recorded on the accompanying "S" brand permit.

(vii) Such cattle from other than a farm of origin or a nonquarantined feedlot may be moved interstate to an approved intermediate handling facility and then directly to a recognized slaughtering establishment only if:

(A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by a permit or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They originate from a certified brucellosis-free herd, identity to the certified brucellosis-free herd is maintained, and they are accompanied by an "S" brand permit; or

(C) They are "S" branded, accompanied by an "S" brand permit, and moved directly to an approved intermediate handling facility; or

(D) They are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be

recorded on the accompanying "S" brand permit.

(2) *Movement to quarantined feedlots.*

(i) Such cattle may be moved interstate from a farm of origin directly to:

(A) A quarantined feedlot if such cattle are "S" branded upon arrival at the quarantined feedlot; or

(B) A specifically approved stockyard and then directly to a quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are "S" branded upon arrival at the specifically approved stockyard and are accompanied to the quarantined feedlot by an "S" brand permit; or

(C) An approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are "S" branded upon arrival at the approved intermediate handling facility and are accompanied to the quarantined feedlot by an "S" brand permit; or

(D) A quarantined feedlot, a specifically approved stockyard and then directly to a quarantined feedlot, or an approved intermediate handling facility and then directly to a quarantined feedlot if the cattle are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying "S" brand permit.

(ii) Such cattle from other than a farm of origin may be moved interstate to a quarantined feedlot if:

(A) They are negative to an official test within 30 days prior to such movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(B) They are "S" branded, accompanied by an "S" brand permit, and moved directly to a quarantined feedlot; or

(C) They are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative,

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State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying “S” brand permit.

(3) *Movement other than in accordance with paragraphs (d)(1) or (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (d)(1) or (2) of this section only if such cattle originate in a certified brucellosis-free herd and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1 of this part, that the cattle originated in a certified brucellosis-free herd.

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§ 78.10 Official vaccination of cattle moving into and out of Class B and Class C States or areas.

(a) Female dairy cattle born after January 1, 1984, which are 4 months of age or over must be official vaccinates to move interstate into or out of a Class B State or area⁴ unless they are moved interstate directly to a recognized slaughtering establishment or quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment. Female cattle eligible for official calfhood vaccination and required by this paragraph to be officially vaccinated may be moved interstate from a farm of origin directly to a specifi-

cally approved stockyard and be officially vaccinated upon arrival at the specifically approved stockyard.

(b) Female cattle born after January 1, 1984, which are 4 months of age or over must be official vaccinates to move into a Class C State or area⁴ unless they are moved interstate directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment. Female cattle eligible for official calfhood vaccination and required by this paragraph to be officially vaccinated may be moved interstate from a farm of origin directly to a specifically approved stockyard and be officially vaccinated upon arrival at the specifically approved stockyard.

(c) Female cattle born after January 1, 1984, which are 4 months of age or over must be official vaccinates to move interstate out of a Class C State or area⁴ under § 78.9(d)(3) of this part. Female cattle from a certified brucellosis-free herd that are eligible for official calfhood vaccination and required by this paragraph to be officially vaccinated may be moved interstate from a farm of origin directly to a specifically approved stockyard and be officially vaccinated upon arrival at the specifically approved stockyard.

[51 FR 32580, Sept. 12, 1986, as amended at 54 FR 1926, Jan. 18, 1989; 56 FR 58638, Nov. 21, 1991]

§ 78.11 Cattle moved to a specifically approved stockyard not in accordance with this part.

Cattle, except brucellosis reactors and brucellosis exposed cattle, which are moved interstate to a specifically approved stockyard but fail to comply with the requirements of this part for release from the specifically approved stockyard may be moved from the specifically approved stockyard only as follows:

(a) With the concurrence of the State animal health officials of the State of

⁴Female cattle imported into the United States may be exempted from the vaccination requirements of this paragraph with the concurrence of the State animal health official of the State of destination. This concurrence is required prior to the importation of the cattle into the United States.

origin and State of destination, directly back to the farm of origin accompanied by a permit; or

(b) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment if such cattle are "S" branded and accompanied by an "S" brand permit; or

(c) Directly to a recognized slaughtering establishment if such cattle are (1) "S" branded and accompanied by an "S" brand permit; or

(2) Accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, an accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

The official seal numbers must be recorded on the "S" brand permit; or

(d) Directly to a quarantined feedlot if such cattle are "S" branded and accompanied by an "S" brand permit.

(Approved by the Office of Management and Budget under control number 0579-0047)

[51 FR 32580, Sept. 12, 1986, as amended at 56 FR 54534, Oct. 22, 1991; 56 FR 58638, 58639, Nov. 21, 1991]

§ 78.12 Cattle from quarantined areas.

Notwithstanding any provisions in the regulations to the contrary, cattle may be moved interstate from a quarantined area only in accordance with § 78.10 and this section.

(a) *Steers and spayed heifers.* Steers and spayed heifers may be moved interstate without restriction under this section.

(b) *Brucellosis reactor cattle.* Brucellosis reactor cattle may be moved interstate in accordance with § 78.7.

(c) *Brucellosis exposed cattle.* Brucellosis exposed cattle may be moved interstate in accordance with § 78.8(a) or (b).

(d) *Movement from qualified herds.* Cattle from qualified herds in any quarantined area may be moved interstate only as follows:

(1) *Movement to recognized slaughtering establishments.* (i) Cattle from qualified

herds in a quarantined area may be moved interstate from a farm of origin directly to a recognized slaughtering establishment or directly to a specifically approved stockyard and then directly to a recognized slaughtering establishment if they are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(ii) Cattle from qualified herds in a quarantined area may be moved interstate from a farm of origin directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment if they are negative to an official test within 30 days prior to such interstate movement and are accompanied by an "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(iii) Cattle from qualified herds in a quarantined area may be moved interstate from a farm of origin directly to a specifically approved stockyard and then directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment if they are negative to an official test within 30 days prior to such interstate movement and are accompanied by a permit or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(iv) Cattle from qualified herds in a quarantined area may be moved interstate in accordance with § 78.8(a).

(2) *Movement to quarantined feedlots.* (i) Cattle from qualified herds in a quarantined area may be moved interstate from a farm of origin directly to a quarantined feedlot, or directly to a specifically approved stockyard and

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then directly to a quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot if the cattle are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1 of this part, the test dates and results of the official tests; or

(ii) Cattle from qualified herds in a quarantined area may be moved in accordance with § 78.8(b).

(3) *Movement other than in accordance with paragraph (d)(1) or (2) of this section.* Cattle from qualified herds in a quarantined area may be moved interstate other than in accordance with paragraph (d)(1) or (2) of this section, either directly from a farm of origin or from a farm of origin through no more than one specifically approved stockyard if

(i) The cattle, except official vaccines less than 1 year of age and cattle less than 6 months of age, are negative to an official test within 30 days prior to such interstate movement; and

(ii) The cattle are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests when such tests are required.

(e) *Movement from herds which are not qualified.* Cattle from herds known to be affected or from herds which are not qualified in any quarantined area may be moved interstate only in accordance with § 78.8(a) or (b).⁵

(Approved by the Office of Management and Budget under control number 0579-0051)

[51 FR 32580, Sept. 12, 1986, as amended at 56 FR 58638, Nov. 21, 1991; 59 FR 67133, Dec. 29, 1994]

§ 78.13 Other movements.

The Administrator may, upon request in specific cases, permit the interstate movement of cattle not otherwise provided for in this subpart, under such conditions as the Administrator may prescribe in each case to

⁵A herd which is not qualified in a quarantined area may become a qualified herd upon compliance with the provisions set forth in § 78.1 in the definition of "qualified herd."

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prevent the spread of brucellosis. The Administrator shall promptly notify the State animal health officials of the States involved of any such action.

[51 FR 32580, Sept. 12, 1986, as amended at 56 FR 54534, Oct. 22, 1991]

§ 78.14 Rodeo bulls.

(a) A rodeo bull that is test-eligible and that is from a herd not known to be affected may be moved interstate if:

(1) The bull is classified as brucellosis negative based upon an official test conducted less than 365 days before the date of interstate movement: *Provided, however,* That the official test is not required for a bull that is moved only between Class Free States;

(2) The bull is identified with an official eartag or any other official identification device or method approved by the Administrator;

(3) There is no change of ownership since the date of the last official test;

(4) A certificate accompanies each interstate movement of the bull; and

(5) A permit for entry is issued for each interstate movement of the bull.

(b) A bull that would qualify as a rodeo bull, but that is used for breeding purposes during the 365 days following the date of being tested, may be moved interstate only if the bull meets the requirements for cattle in this subpart.

(Approved by the Office of Management and Budget under control number 0579-0047)

[56 FR 58639, Nov. 21, 1991, as amended at 67 FR 70310, Nov. 22, 2002; 69 FR 64650, Nov. 8, 2004]

§§ 78.15-78.19 [Reserved]

Subpart C—Restrictions on Interstate Movement of Bison Because of Brucellosis

§ 78.20 General restrictions.

Bison may not be moved interstate except in compliance with this subpart.

§ 78.21 Bison steers and spayed heifers.

Bison steers and spayed heifers may be moved interstate without restriction under this subpart.

§ 78.22 Brucellosis reactor bison.

(a) *Destination.* Brucellosis reactor bison may be moved interstate only for immediate slaughter as follows:

(1) Directly to a recognized slaughtering establishment;

(2) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or

(3) From a farm of origin directly to a specifically approved stockyard approved to receive brucellosis reactors and then

(i) Directly to a recognized slaughtering establishment; or

(ii) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment.

(b) *Identification.* Brucellosis reactor bison must be individually identified prior to moving interstate by attaching to the left ear a metal tag bearing a serial number and the inscription "U.S. Reactor," or a metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors, and must be:

(1) "B" branded (as defined in § 78.1); or

(2) Accompanied directly to slaughter by an APHIS or State representative; or

(3) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying permit.

(c) *Permit.* Brucellosis reactor bison moving interstate shall be accompanied to destination by a permit.

(d) *Marking of records.* Each person moving brucellosis reactor bison interstate shall, in the course of interstate movement, plainly write or stamp the words "Brucellosis Reactor" upon the face of any document that person prepares in connection with such movement.

(e) *Segregation en route.* Brucellosis reactor bison shall not be moved interstate in any means of conveyance containing animals which are not brucellosis reactors unless all of the animals are for immediate slaughter or unless

the brucellosis reactor bison are kept separate from the other animals by a partition securely affixed to the sides of the means of conveyance.

(Approved by the Office of Management and Budget under control number 0579-0051)

[51 FR 32580, Sept. 12, 1986, as amended at 59 FR 67133, Dec. 29, 1994; 60 FR 48368, Sept. 19, 1995]

§ 78.23 Brucellosis exposed bison.

Brucellosis exposed bison may be moved interstate only as follows:

(a) *Movement to recognized slaughtering establishments.* Brucellosis exposed bison may be moved interstate for slaughter accompanied by a permit or "S" brand permit and as follows:

(1) Directly to a recognized slaughtering establishment or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or

(2) From a farm of origin directly to a specifically approved stockyard approved to receive brucellosis exposed bison and then

(i) Directly to a recognized slaughtering establishment; or

(ii) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment.

(b) *Movement to quarantined feedlots.* Brucellosis exposed bison may be moved directly to a quarantined feedlot or, from a farm of origin, directly to a specifically approved stockyard approved to receive brucellosis exposed bison and then directly to a quarantined feedlot. Such bison shall be accompanied by a permit or "S" brand permit.

(c) *Movement other than in accordance with paragraphs (a) or (b) of this section.* Brucellosis exposed bison which are from herds known to be affected, but which are not part of a herd being depopulated under Part 51 of this chapter, may move without restriction if the bison:

(1) Are under 6 months of age and were weaned from brucellosis reactor or brucellosis exposed bison not less than 30 days immediately preceding interstate movement; or

(2) Are under 6 months of age and nursing brucellosis exposed bison in a herd subjected to a herd blood test

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within 10 days prior to interstate movement; or

(3) Are official vaccinates under 1 year of age from a herd following an approved individual herd plan.

(Approved by the Office of Management and Budget under control number 0579-0051)

[51 FR 32580, Sept. 12, 1986, as amended at 59 FR 67133, Dec. 29, 1994]

§ 78.24 Bison from herds not known to be affected.

Bison from herds not known to be affected may be moved interstate only as follows:

(a) *Movement to recognized slaughtering establishments.* Bison from herds not known to be affected may be moved directly to a recognized slaughtering establishment without restriction under this subpart.

(b) *Movement to quarantined feedlots.* Bison from herds not known to be affected may be moved directly to a quarantined feedlot without restriction under this subpart.

(c) *Movement from public zoo to public zoo.* Bison from herds not known to be affected may be moved from a zoo owned by a governmental agency to another such zoo if handled in accordance with § 78.3.

(d) *Movement other than in accordance with paragraphs (a), (b), or (c) of this section.* Bison from herds not known to be affected may be moved interstate other than in accordance with paragraphs (a), (b), or (c) of this section only as follows:

(1) Such bison under 6 months of age may be moved interstate when accompanied by a certificate.

(2) Such bison which are official vaccinates under 2 years of age and are not parturient or postparturient may be moved interstate when accompanied by a certificate.

(3) Such bison may be moved interstate if they are negative to an official test within 30 days prior to such movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1, the dates and results of the official tests.

(4) Such bison may be moved interstate if they originate in a certified brucellosis-free herd and are accompanied by a certificate which states, in addition to the items specified in § 78.1,

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that the bison originated in a certified brucellosis-free herd.

(Approved by the Office of Management and Budget under control number 0579-0047)

[51 FR 32580, Sept. 12, 1986, as amended at 56 FR 58639, Nov. 21, 1991]

§ 78.25 Other movements.

The Administrator may, upon request in specific cases, permit the interstate movement of bison not otherwise provided for in this subpart, under such conditions as the Administrator may prescribe in each case to prevent the spread of brucellosis. The Administrator shall promptly notify the State animal health officials of the States involved of any such action.

[51 FR 32580, Sept. 12, 1986, as amended at 56 FR 54534, Oct. 22, 1991]

§§ 78.26-78.29 [Reserved]

Subpart D—Restrictions on Interstate Movement of Swine Because of Brucellosis

§ 78.30 General restrictions.

(a) Brucellosis reactor swine, brucellosis exposed swine, feral swine, sows, and boars may not be moved interstate or in interstate commerce except in compliance with this subpart.

(b) Each person who causes the movement of swine in interstate commerce is responsible for the identification of the swine as required by this subpart. No such person shall remove or tamper with or cause the removal of or tampering with an identification tattoo or approved swine identification tag required in this subpart except at the time of slaughter, or as may be authorized by the Administrator upon request in specific cases and under such conditions as the Administrator may impose to ensure continuing identification.

(c)(1) Feral swine may be moved interstate directly to slaughter if they do not come into physical contact with any domestic swine or other livestock.

(2) Feral swine from monitored-negative populations may be moved interstate other than directly to slaughter if accompanied by a permit issued by the APHIS representative or the State animal health official in the State of origin.

(3) Feral swine found negative to an official test within the 30 days prior to the interstate movement may be moved interstate other than directly to slaughter if accompanied by a permit issued by the APHIS representative or the State animal health official in the State of origin.

[51 FR 32580, Sept. 12, 1986, as amended at 56 FR 54534, Oct. 22, 1991; 59 FR 18952, Apr. 21, 1994]

§ 78.31 Brucellosis reactor swine.

(a) *Destination.* Brucellosis reactor swine may be moved interstate only for immediate slaughter as follows:

(1) Directly to a recognized slaughtering establishment; or

(2) Directly to a stockyard posted under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), or directly to a market agency or dealer registered under the Packers and Stockyards Act, for sale to a recognized slaughtering establishment in accordance with the following requirements:

(b) *Identification.* Brucellosis reactor swine shall be individually identified by attaching to the left ear a metal tag bearing a serial number and the inscription, "U.S. Reactor," or a metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors.

(c) *Permit.* Brucellosis reactor swine shall be accompanied to destination by a permit.

(d) *Marking of records.* Each person moving brucellosis reactor swine interstate shall, in the course of interstate movement, plainly write or stamp the words "Brucellosis Reactor" upon the face of any document that person prepares in connection with such movement.

(e) *Segregation en route.* Brucellosis reactor swine shall not be moved interstate in any means of conveyance containing animals which are not brucellosis reactors unless all of the animals in the shipment are for immediate slaughter, or unless the brucellosis reactor swine are kept separate from other animals by a partition securely

affixed to the sides of the means of conveyance.

(Approved by the Office of Management and Budget under control number 0579-0051)

[51 FR 32580, Sept. 12, 1986, as amended at 59 FR 67133, Dec. 29, 1994]

§ 78.32 Brucellosis exposed swine.

(a) Brucellosis exposed swine may be moved interstate only if accompanied by a permit and only for immediate slaughter as follows:

(1) Directly to a recognized slaughtering establishment; or

(2) Directly to a stockyard posted under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), or directly to a market agency or dealer registered under the Packers and Stockyards Act, for sale to a recognized slaughtering establishment.

(b) Brucellosis exposed swine from a herd known to be affected with brucellosis may be moved interstate from the herd known to be affected only if such swine are individually identified by attaching to the left ear a metal tag bearing a serial number and the inscription, "U.S. Reactor," or a metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors.

(Approved by the Office of Management and Budget under control number 0579-0051)

[59 FR 12533, Mar. 17, 1994, as amended at 59 FR 67133, Dec. 29, 1994]

§ 78.33 Sows and boars.

(a) Sows and boars may be moved in interstate commerce for slaughter or for sale for slaughter if they are identified in accordance with § 71.19 of this chapter either:

(1) Before being moved in interstate commerce and before being mixed with swine from any other source; or

(2) After being moved in interstate commerce but before being mixed with swine from any other source only if they have been moved directly from their herd of origin to:

(i) A recognized slaughtering establishment; or

(ii) A stockyard, market agency, or dealer operating under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*).

(b) Sows and boars may be moved in interstate commerce for breeding only if they are identified in accordance with § 71.19 of this chapter before being moved in interstate commerce and before being mixed with swine from any other source, and the sows and boars either:

(1) Are from a validated brucellosis-free herd or a validated brucellosis-free State and are accompanied by a certificate that states, in addition to the items specified in § 78.1, that the swine originated in a validated brucellosis-free herd or a validated brucellosis-free State; or

(2) Have tested negative to an official test conducted within 30 days prior to interstate movement and are accompanied by a certificate that states, in addition to the items specified in § 78.1, the dates and results of the official tests.

(c) Sows and boars may be moved in interstate commerce for purposes other than slaughter or breeding without restriction under this subpart if they are identified in accordance with § 71.19 of this chapter.

[62 FR 27936, May 22, 1997]

§ 78.34 Other movements.

The Administrator may, upon request in specific cases, permit the movement in interstate commerce of swine not otherwise provided for in this subpart under such conditions as the Administrator may prescribe in each case to prevent the spread of brucellosis. The Administrator shall promptly notify the State animal health officials of the States involved of any such action.

[51 FR 32580, Sept. 12, 1986, as amended at 56 FR 54534, Oct. 22, 1991]

§§ 78.35–78.39 [Reserved]

Subpart E—Designation of Brucellosis Areas

§ 78.40 Designation of States/areas.

The Administrator may amend §§ 78.41 and 78.42 to reclassify States and areas as Class Free, Class A, Class B, Class C, or quarantined when the Administrator determines that the States or areas meet the appropriate

definitions in § 78.1. The Administrator may approve the division of a State into two brucellosis classification areas upon finding that: (a) The State has legislative and regulatory authority for maintaining separate areas; (b) The State has committed resources to enforcing the different requirements in each area; (c) The State has an effective method for monitoring and controlling movement of cattle across the intrastate boundary; (d) The State has defined the intrastate boundary by county lines or by recognizable geographic features, such as rivers and highways; and (e) Each area of the State meets the standards for the brucellosis classification requested. The Administrator may amend § 78.43 to reclassify States as validated brucellosis-free States or remove such status when the Administrator determines that such States meet or do not meet the standards of a validated brucellosis-free State as defined in § 78.1. In the case of any reclassification to a lower class, reclassification as a quarantined State or area, or removal of validated brucellosis-free status, the State animal health official of the State involved will be notified of such reclassification or removal, and will be given an opportunity to present objections and arguments to the Administrator prior to the reclassification or removal taking place.

[51 FR 32580, Sept. 12, 1986, as amended at 53 FR 2222, Jan. 27, 1988; 56 FR 54533, Oct. 22, 1991; 56 FR 55803, Oct. 30, 1991]

§ 78.41 State/area classification.

(a) *Class Free.* Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virgin Islands, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

(b) *Class A.* Idaho and Texas.

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(c) *Class B*. None.

[51 FR 32580, Sept. 12, 1986]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 78.41, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 78.42 Quarantined areas.

None.

§ 78.43 Validated brucellosis-free States.

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virgin Islands, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

[53 FR 4382, Feb. 16, 1988; 53 FR 21979, June 13, 1988, as amended at 53 FR 24930, July 1, 1988; 53 FR 44180, Nov. 2, 1988; 55 FR 420, Jan. 5, 1990; 55 FR 7883, Mar. 6, 1990; 55 FR 41995, Oct. 17, 1990; 55 FR 42354, Oct. 19, 1990; 56 FR 2127, Jan. 22, 1991; 56 FR 46109, Sept. 10, 1991; 58 FR 11365, Feb. 25, 1993; 58 FR 28343, May 13, 1993; 58 FR 68506, Dec. 28, 1993; 60 FR 67321, Dec. 29, 1995; 63 FR 34267, June 24, 1998; 63 FR 44777, Aug. 21, 1998; 63 FR 53782, Oct. 7, 1998; 69 FR 67502, Nov. 18, 2004; 70 FR 22589, May 2, 2005]

PART 79—SCRAPIE IN SHEEP AND GOATS

Sec.

79.1 Definitions.

79.2 Identification of sheep and goats in interstate commerce.

79.3 General restrictions.

79.4 Designation of scrapie-positive animals, high-risk animals, exposed animals, suspect animals, exposed flocks, infected flocks, noncompliant flocks, and source flocks; notice to owners.

79.5 Issuance of certificates.

79.6 Standards for States to qualify as Consistent States.

79.7 Waiver of requirements for scrapie control pilot projects.

AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 66 FR 43990, Aug. 21, 2001, unless otherwise noted.

§ 79.1 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any employee of the United States Department of Agriculture authorized to act for the Administrator.

Animal. A sheep or goat.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS in animal health activities who is authorized by the Administrator to perform the function involved.

Approved laboratory. A laboratory approved by the Administrator in accordance with § 54.11 of this chapter to conduct one or more scrapie tests, or genotype tests, on one or more tissues.

Area veterinarian in charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

Blackfaced sheep. Any purebred suffolk, hampshire, shropshire or cross thereof, any non-purebred sheep known to have suffolk, hampshire, or shropshire ancestors, and any non-purebred sheep of unknown ancestry with a black face, except commercial hair sheep.

Breed association and registries. Organizations listed in § 151.9 of this chapter that maintain the permanent records of ancestry or pedigrees of animals (including the animal's sire and dam), individual identification of animals, and ownership of animals.

Certificate. An official document issued in accordance with § 79.5 by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals.

Commercial hair sheep. Any commercial sheep with hair rather than wool that is either a full-blooded hair sheep or that resulted from the cross of a hair sheep with a whitefaced wool sheep.

Commercial sheep or goat. Any animal from a flock from which animals are moved only either directly to slaughter or through slaughter channels to slaughter or any animal that is raised only for meat or fiber production and that is not registered with a sheep or goat registry or used for exhibition.

Commingle, commingled, commingling. Animals grouped together and having physical contact with each other, including contact through a fence, but not limited contacts. Commingling also includes sharing the same section in a transportation unit where there is physical contact.

Consistent State. (1) A State that the Administrator has determined conducts an active State scrapie control program that either:

- (i) Meets the requirements of § 79.6; or
- (ii) Effectively enforces a State designed plan that the Administrator determines is at least as effective in controlling scrapie as the requirements of § 79.6.

(2) The Administrator has determined the following States to be Consistent States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Designated scrapie epidemiologist. An epidemiologist who has demonstrated the knowledge and ability to perform the functions required and who has been selected by the State animal health official and the area veterinarian in charge. The regional epidemiologist and the APHIS National Scrapie Program Coordinator must

concur in the selection and appointment of the designated scrapie epidemiologist. The designated scrapie epidemiologist must satisfactorily complete training designated by APHIS.

Direct movement to slaughter. Transported to a facility for slaughter, without stops or unloading except for feeding and watering during which the animals are not commingled with any other animals.

Electronic implant. Any radio frequency identification implant device approved for use in the scrapie program by the Administrator. The Administrator will approve an electronic implant after determining that it is tamper resistant, not harmful to the animal, and readable by equipment available to APHIS and State representatives.

Exposed animal. (1) Any animal that has been in the same flock at the same time as a scrapie-positive female animal, excluding limited contacts; or

(2) Any animal born in a flock after a scrapie-positive animal was born into that flock or lambed in that flock, if born before that flock completes the requirements of a flock plan; or

(3) Any animal that was commingled with a scrapie-positive female animal during or up to 30 days after she lambed, kidded, or aborted, or while a visible vaginal discharge was present, or that was commingled with any other scrapie-positive female animal for 24 hours or more, including during activities such as shows and sales or while in marketing channels; or

(4) Any animal in a noncompliant flock.

Exposed flock. Any flock in which a scrapie-positive animal was born or lambed. Any flock that currently contains a female high-risk, exposed, or suspect animal, or that once contained a female high-risk, exposed, or suspect animal that lambed in the flock and from which tissues were not submitted for official testing and found negative. A flock that has completed a post-exposure management and monitoring plan following the exposure will no longer be an exposed flock.

Flock. All animals that are maintained on a single premises and all animals under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of part or all of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. Animals maintained temporarily on a premises for activities such as shows and sales or while in marketing channels are not a flock. More than one flock may be maintained on a single premises if:

(1) The flocks are enrolled as separate flocks in the SFCP; or

(2) A State or APHIS representative determines, based upon examination of flock records, that:

(i) There is no interchange of animals between the flocks;

(ii) The flocks never commingle and are kept at least 30 feet apart at all times or are separated by a solid wall through, over, or under which fluids cannot pass and through which contact cannot occur;

(iii) The flocks have separate flock records and identification;

(iv) The flocks have separate lambing facilities, including buildings and pastures, and a pasture or building used for lambing by one flock is not used by the other flock at any time; and

(v) The flocks do not share equipment without cleaning and disinfection in accordance with § 54.7(e) of this chapter. Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules.

Flock of origin. The flock in which an animal most recently resided in which it either was born, gave birth, or was used for breeding purposes. The determination of an animal's flock of origin may be based either on the physical presence of the animal in the flock, the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records.

Flock plan. A written flock management agreement signed by the owner of

a flock, the accredited veterinarian, if one is employed by the owner, and a State or APHIS representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in § 54.8(a)(f) of this chapter.

High-risk animal. A sexually intact animal, excluding male sheep that have tested RR at codon 171 and AA at codon 136 using an official genotype test, that is:

(1) The progeny of a scrapie-positive dam; or

(2) Born in the same flock during the same lambing season as progeny of a scrapie-positive dam, unless the progeny of the scrapie-positive dam are from separate contemporary lambing groups; or

(3) Born in the same flock during the same lambing season that a scrapie-positive animal was born, or during any subsequent lambing season, if born before that flock completes the requirements of a flock plan; or

(4) An exposed female sheep that has not tested QR, HR, or RR at codon 171 using an official genotype test.

Inconsistent State. Any State other than a Consistent State.

Infected flock. The flock of origin of a female animal that a State or APHIS representative has determined to be a scrapie-positive animal; or any flock in which a State or APHIS representative has determined that a scrapie-positive female animal has resided unless an epidemiologic investigation conducted by a State or APHIS representative shows that the animal did not lamb or abort in the flock. A flock will no longer be considered an infected flock after it has completed the requirements of a flock plan.

Interstate commerce. Trade, traffic, transportation, or other commerce between a place in a State and any place outside of that State, or between

points within a State but through any place outside that State.

Limited contacts. Incidental contacts between animals from different flocks off the flock's premises such as at fairs, shows, exhibitions and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized between animals for these contacts to be considered limited contacts. Limited contacts do not include any contact, incidental or otherwise, with animals in the same flock or with an animal during or up to 30 days after she lambbed, kidded or aborted or when there is any visible vaginal discharge. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or residing in other flocks for breeding or other purposes. Examples of limited contacts may be found in the Scrapie Flock Certification Program standards.

Live-animal screening test. Any test for the diagnosis of scrapie in a live animal that is approved by the Administrator as usually reliable but not definitive for diagnosing scrapie, and that is conducted in a laboratory approved by the Administrator.¹

¹The names and addresses of laboratories approved by the Administrator to conduct live-animal screening tests will be published in the Notices Section of the FEDERAL REGISTER. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737-1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator will give written notice of the proposed withdrawal to the director of the laboratory, and will give the director an opportunity to respond. If there

Low-risk commercial sheep. Commercial whitefaced, whitefaced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female blackfaced sheep, that are identified with a legible permanent brand or ear notch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. The term brand includes official brand registry brands on ear tags in those States whose brand law or regulation recognizes brands placed on ear tags as official brands. Low-risk commercial sheep may only exist in a State where scrapie has not been diagnosed in the previous 10 years in commercial whitefaced, whitefaced cross, or commercial hair sheep that were not commingled with female blackfaced sheep.

Low-risk goat. A goat that is not a scrapie-positive, suspect, high-risk, or exposed animal, that has not been commingled with sheep, and that is from:

(1) A State in which scrapie has not been identified in a goat during the previous 10 years;

(2) A State in which scrapie has been identified in a goat during the previous 10 years, but the scrapie-positive goat was not born in the State and resided in the State for less than 54 months and did not kid while in the State; or,

(3) A State in which scrapie has been identified in a goat during the previous 10 years, and the scrapie-positive goat was commingled with sheep, but flock records allowed a complete epidemiologic investigation to be completed and all resulting infected, source, and exposed goat herds have completed flock plans and are in compliance with post-exposure monitoring plans.

National Scrapie Database. A database designated by the Administrator in which APHIS and State animal health agencies cooperatively enter data concerning scrapie outbreaks, flocks and premises affected by scrapie, individual animal identification and premises identification data, and other data to

are conflicts as to any material fact, a hearing will be held to resolve the conflicts.

support the Scrapie Eradication Program and the Scrapie Flock Certification Program.

Noncompliant flock. (1) Any source or infected flock whose owner declines to enter into a flock plan or post-exposure management and monitoring plan agreement within 30 days of being so designated, or whose owner is not in compliance with either agreement;

(2) Any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed, or whose owner fails to submit required postmortem samples;

(3) Any flock whose owner has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or any other information on a certificate, permit, owner statement, or other official document within the last 5 years; or

(4) Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this chapter within the last 5 years.

Official eartag. An identification eartag approved by APHIS as being sufficiently tamper-resistant for the intended use and providing unique identification for each animal. An official eartag may conform to the alphanumeric National Uniform Eartagging system or another system approved by APHIS, or it may bear a premises identification number that either contains or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number.

Official genotype test. Any test to determine the genotype of a live or dead animal that is conducted at either an approved laboratory or at the National Veterinary Services Laboratories, when the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a State or APHIS representative.

Official identification. Identification mark or device approved by APHIS for use in the Scrapie Eradication Program. Examples are listed in § 79.2(a)(2).

Official identification device or method. A means of officially identifying an

animal or group of animals using devices or methods approved by the Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority.

Official test. Any test for the diagnosis of scrapie in a live or dead animal that is approved by the Administrator for that use and conducted either at an approved laboratory or at the National Veterinary Services Laboratories.

Owner. A person, partnership, company, corporation, or any other legal entity who has legal or rightful title to animals, whether or not they are subject to a mortgage.

Owner statement. A written statement by the owner that includes the owner's name, signature, address, and phone number, date the animals left the flock of origin, the premises identification number assigned to the premises, the number of animals, the premises portion of the premises identification if premises identification is used, and a statement that the animals were either born or were used for breeding purposes on the premises to which the premises identification is assigned.

Ownership brand. A unique permanent legible brand or ear notch pattern applied to an animal that indicates ownership by a particular person when the brand pattern is registered with a State's official brand recording agency.

Permit. An official document issued in connection with the interstate movement of animals (VS Form 1-27 or a State form that contains the same information) that is issued by an APHIS representative, State representative, or an accredited veterinarian authorized to sign such permits. A new permit is required for each change in destination for an animal. A permit lists the owner's name and address; points of origin and destination; number of animals covered; purpose of the movement; whether the animals are from an exposed, noncompliant, infected, or source flock; whether the animal is a high-risk, exposed, scrapie-positive, or scrapie suspect animal; transportation vehicle license number or other identification number; and seal number (if a seal is required). A permit also lists all official identification on the animals

covered, including the official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, United States Department of Agriculture backtag (when applied serially, only the beginning and the ending numbers need be recorded), individual animal registered breed association registration number, or any other form of official identification present on the animal.

Premises identification. An APHIS approved eartag, backtag, or legible tattoo bearing the premises identification number, as defined in this section, or a flock identification number, or a legible permanent brand or ear notch pattern registered with an official brand registry. Premises identification may be used when official individual animal identification is required, if the premises identification method either includes a unique animal number or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number and where, if brands or ear notches are used, the animals are accompanied by an official brand inspection certificate. Clearly visible and/or legible paint brands may be used on animals moving directly to slaughter and on animals moving for grazing or other management purposes without change in ownership.

Premises identification number (PIN). A unique number assigned by a State or Federal animal health authority to a premises that is, in the judgment of the State or Federal animal health authority, a geographically distinct location from other livestock production units. The premises identification number is associated with an address or legal land description and may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. The premises identification number may consist of:

- (1) The State's two-letter postal abbreviation followed by the premises' assigned number; or
- (2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit

number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

Scrapie Eradication Program. The cooperative State-Federal program administered by APHIS and Consistent States to control and eradicate scrapie.

Scrapie Eradication Uniform Methods and Rules (UM&R). Cooperative procedures and standards adopted by APHIS and Consistent States for controlling and eradicating scrapie. The UM&R will be reviewed at least annually by representatives of the livestock industry, appropriate State and Federal agencies, and the public and will be drafted, revised, and published as needed by APHIS.

Scrapie Flock Certification Program (SFCP). The cooperative Federal-State-industry voluntary program for the control of scrapie conducted in accordance with subpart B of part 54 of this chapter.

Scrapie Flock Certification Program standards. Cooperative procedures and standards adopted by APHIS and State Scrapie Certification Boards for reducing the incidence and controlling the spread of scrapie through flock certification.²

Scrapie-positive animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories or another laboratory authorized by the Administrator to conduct scrapie tests in accordance with this chapter, through:

- (1) Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;
- (2) The use of proteinase-resistant protein analysis methods including but not limited to immunohistochemistry and/or western blotting on CNS and/or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the Administrator for use on that tissue;
- (3) Bioassay;
- (4) Scrapie associated fibrils (SAF) detected by electron microscopy; or

²Individual copies of the SFCP standards may be obtained on the World Wide Web at URL <http://www.aphis.usda.gov/vs>, or from the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737-1235.

(5) Any other test method approved by the Administrator in accordance with § 54.10 of this chapter.³

Separate contemporary lambing groups. To be a separate contemporary lambing group, the group must be maintained separately such that the animals cannot come into physical contact with other lambs, kids, ewes or does or birth fluids or placenta from other ewes or does. This separate maintenance must preclude contact through a fence, during lambing and for 60 days following the date the last lamb or kid is born in a lambing season, and must preclude using the same lambing facility as other ewes or does, unless the lambing facility is cleaned and disinfected under supervision by an APHIS representative, State representative, or an accredited veterinarian between lambings in accordance with § 54.7(e) of this chapter. Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules. The flock owner must maintain adequate records to document which animals were maintained in each contemporary lambing group and to document when cleaning and disinfection was performed and who supervised it.

³The names and addresses of laboratories approved by the Administrator to conduct tests are published in the Notices Section of the FEDERAL REGISTER. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737-1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

Slaughter channels. Animals in slaughter channels include any animal that is sold, transferred, or moved either directly to a slaughter facility, to an individual for custom slaughter, or for feeding for the express purpose of improving the animals' condition for movement to slaughter. Any sexually intact animal that is commingled with breeding animals or that has been bred is not in slaughter channels. When selling animals for slaughter, owners should note on the bill of sale that the animals are sold only for slaughter.

Source flock. A flock in which a State or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less. The determination that an animal was born in a flock will be based on such information as the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records, to show that a scrapie-positive animal was born in the flock, combined with the absence of records indicating that the animal was purchased from outside and added to the flock. If DNA from the animal was previously collected by an accredited veterinarian and stored at an approved genotyping laboratory, or if DNA collection and storage are required for breed registration and the breed registration has appropriate safeguards in place to ensure the integrity of the banking process, the owner may request verification of the animal's identity based on DNA comparison if adequate records and identification have been maintained by the owner and the repository to show that the archived DNA is that of the animal that has been traced to the flock. The owner will be responsible for all costs for the DNA comparison. A flock will no longer be a source flock after it has completed the requirements of a flock plan.

State. Each of the 50 States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all territories or possessions of the United States.

State representative. An individual employed in animal health activities by a

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State or a political subdivision of a State and who is authorized by the State or political subdivision to perform the function involved.

Suspect animal. An animal will be designated a suspect animal in accordance with § 79.4 if it is:

(1) A sheep or goat that exhibits any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian or a State or APHIS representative: Weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, "star gazing," head pressing, recumbency, or other signs of neurological disease or chronic wasting.

(2) A sheep or goat that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on a live-animal screening test or any other test, unless the animal is designated a scrapie-positive animal.

(3) A sheep or goat that has tested inconclusive or suggestive on an official test for scrapie.

Terminal feedlot. (1) A dry lot approved by a State or APHIS representative or an accredited veterinarian authorized to perform this function where animals are separated from all other animals by at least 30 feet at all times or are separated by a solid wall through, over, or under which fluids cannot pass and contact cannot occur and from which animals are moved only to another terminal feedlot or directly to slaughter; or

(2) A pasture when approved by and maintained under the supervision of the State and in which only nonpregnant animals are permitted, where there is no direct fence-to-fence contact with another flock, and from which animals are moved only to another terminal feedlot or directly to slaughter.

(3) Records of all animals entering and leaving a terminal feedlot must be maintained for 1 year after the animal

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leaves the feedlot and must include the person from whom the animals were acquired and the slaughtering facility in which they were slaughtered. Records must be made available for inspection by an APHIS or State representative upon request.

Unofficial test. Any test for the diagnosis of scrapie or for the detection of the proteinase resistant protein associated with scrapie in a live or dead animal that either has not been approved by the Administrator or that was not conducted at an approved laboratory or at the National Veterinary Services Laboratories.

[66 FR 43990, Aug. 21, 2001, as amended at 69 FR 64650, Nov. 8, 2004]

§ 79.2 Identification of sheep and goats in interstate commerce.

(a) No sheep or goat that is required to be individually identified or premises identified by § 79.3 may be sold, transported, received for transportation, or offered for sale or transportation in interstate commerce unless each sheep or goat is identified in accordance with this section.

(1) The sheep or goat must be identified to its flock of origin and, for an animal born after January 1, 2002, to its flock of birth, by the owner of the flock or his or her agent; at whichever of the following points in commerce comes first, *Except that*; animals born after January 1, 2002, may be moved interstate direct to slaughter without identification to flock of birth until June 1, 2003, and animals that cannot be identified to their flock of origin because Consistent States have exempted them from flock of origin identification in intrastate commerce in accordance with § 79.6(a)(10)(i) may be moved interstate with only individual animal identification traceable to the State of origin and to the owner of the animals at the time they were so identified:

(i) The point of first commingling of the sheep or goats in interstate commerce with sheep or goats from any other flock of origin;

(ii) Upon unloading of the sheep or goats in interstate commerce at any livestock market, except a market described in paragraph (a)(1)(iii) of this section;

(iii) Upon leaving a livestock market that has been approved in accordance with this chapter to handle sheep and goats in interstate commerce and that has agreed to act as an agent for the owner to apply official identification to the animals. In such cases the animals must be:

(A) Moved to the market and maintained until officially identified in distinguishable groups identifiable to their flocks of origin and when required their flock of birth by means of partitions or other such maintenance; and,

(B) Accompanied by an owner statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth;

(iv) Upon transfer of ownership of the sheep or goats in interstate commerce;

(v) In the case of animals shipped directly to slaughter at a slaughter plant that has agreed to act as an agent for the owner to apply official identification to the animals, upon arrival of the sheep or goats in interstate commerce at the slaughter plant. In such cases the animals must be:

(A) Moved to the slaughter plant and maintained until officially identified in distinguishable groups identifiable to their flocks of origin and when required their flock of birth by means of partitions or other such maintenance; and,

(B) Accompanied by an owner statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth. If the slaughter plant has agreed to allow APHIS to conduct slaughter sampling, animals need not be identified if they arrive at the plant on days that an APHIS designated sampler is not available at the plant to collect samples; or

(vi) Prior to moving a sheep or goat across a State line, unless the animals are moving to an approved livestock market in accordance with paragraph (a)(1)(iii) of this section or to an approved slaughter plant in accordance with paragraph (a)(1)(v) of this section.

(2) The sheep or goats must be identified by one of the following means of identification, and must remain so

identified until they reach their final destination:

(i) Electronic implants for animals required to be identified by the SFCP, when used in a flock participating in the SFCP and when accompanied by a certificate or owner statement that includes the electronic implant numbers and the name of the chip manufacturer;

(ii) Official eartags, including tags approved for use in the SFCP or APHIS-approved premises identification number eartags when combined with a unique animal identification number;

(iii) United States Department of Agriculture backtags or official premises identification backtags that include a unique animal identification number, when used on sheep or goats moving directly to slaughter and when applied within 3 inches of the poll on the dorsal surface of the head or neck;

(iv) Legible official registry tattoos that have been recorded in the book of record of a sheep or goat registry association when the animal is accompanied by either a registration certificate or a certificate of veterinary inspection. These tattoos may also be used as premises identification if they contain a unique premises prefix that has been linked in the National Scrapie Database with the assigned premises identification number of the flock of origin;

(v) Premises identification eartags or tattoos, if the premises identification method includes a unique animal number or is combined with a flock eartag that has a unique animal number and the animal is accompanied by an owner statement;

(vi) Premises identification when premises identification is allowed by § 79.3 and the animal is accompanied by an owner statement; or

(vii) Any other official identification method or device approved by the Administrator.

(3) The owner of the flock of origin is responsible for the identification of animals required to be identified by this section. No person who buys or sells, for his or her own account or as

the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles sheep or goats in interstate commerce shall receive or otherwise handle any animal in interstate commerce that has not been identified as required by this section. If an animal loses its identification to its flock of origin while in interstate commerce it is the responsibility of the person who has control or possession of the animal to identify the animal prior to commingling it with any other animals. This shall be done by applying individual animal identification to the animal as required in paragraph (a)(2) of this section and recording the means of identification and the corresponding animal identification number. If the flock of origin cannot be determined, all possible flocks of origin shall be listed on the record.

(b) Serial numbers for use in official identification will be assigned to each person who applies to the State animal health official or the area veterinarian in charge for the State in which that person maintains his or her place of business. Serial numbers of official eartags will be assigned to each accredited veterinarian or State or APHIS representative who requests official eartags from the State animal health official or the area veterinarian in charge, whoever is responsible for issuing official eartags in that State. The official responsible for issuing eartags in a State may assign serial numbers of official eartags to other responsible persons, such as 4-H leaders, if the State animal health official and the area veterinarian in charge agree that such assignments will improve scrapie control and eradication within the State. Persons assigned serial numbers may either directly apply eartags to animals, or may reassign eartag numbers to producers. If these persons reassign eartag numbers, they must maintain appropriate records that permit traceback of animals to their flock of origin, or flock of birth when required. Premises identification eartag, backtag, and tattoo numbers (series of alphanumeric USDA tags and backtags may be assigned as premises identification if they are linked to the premises in the National Scrapie Database) will

be assigned to animal owners by the State animal health official or the area veterinarian in charge, whoever is responsible for assigning premises codes in that State. Persons assigned serial numbers of United States Department of Agriculture backtags, official sheep and goat tattoos, official eartags, and premises identification numbers must:

(1) If the person assigned the numbers is a flock owner, so that the assigned numbers are directly linked to the flock of origin in the national scrapie database, record the following information on a document:

(i) The premises identification number or serial numbers;

(ii) The number of animals so identified;

(iii) The date the animals were identified;

(iv) For animals born after January 1, 2002, that were not born in the flock of origin and that are not identified to the previous flock of origin, the individual identification number applied and the name, street address, including the city and State, or the township, county, and State, and the telephone number, if the telephone number is available, of the flock of birth if known.

(2) If the person assigned the numbers is a veterinarian, extension agent, auction market operator, dealer, or any person other than the owner of the flock of origin, record the following information on a document:

(i) All serial numbers applied to a sheep or goat;

(ii) Any other serial numbers and approved identification appearing on the sheep or goat;

(iii) The street address, including the city and State, or the township, county, and State, of the premises where the approved means of identification was applied;

(iv) The date the identification was applied;

(v) The name, street address, including the city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person who owns or possesses the sheep or goat, and

(vi) For animals born after January 1, 2002, that were not born in the flock of origin and that are not identified to the previous flock of origin, the individual identification number applied and the name, street address, including the city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the flock of birth if known.

(vii) The serial numbers, the manufacturer, and the type and color of all official tags received. Usually maintaining the tag invoice will meet this requirement.

(3) Maintain these records for 5 years; and

(4) Make these records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) upon request by any authorized employee of the United States Department of Agriculture or the State, and presentation of his or her official credentials.

(5) Any person who fails to comply with these requirements shall not be assigned serial numbers of United States Department of Agriculture backtags, official sheep and goat tattoos, official eartags, or premises identification numbers. If a person who is not in compliance with these requirements has already been assigned such serial numbers, the Administrator may withdraw the assignment by giving notice to such person. After such notice the person shall be subject to criminal and civil penalties if he continues to use those assigned serial numbers.

(c) No person shall apply a premises identification number or a brand or ear-notch pattern to an animal that did not originate on the premises to which the number was assigned by a State or APHIS representative or to which the brand or ear-notch pattern has been assigned by an official brand registry. This includes individual identification such as USDA tags and backtags that have been assigned to a premises for use as premises identification and registration tattoos that contain prefixes that have been assigned to a premises for use as premises identification. This does not preclude the owner of a flock from using a premises identification number tag assigned to that flock on

an animal owned by him that resides in that flock but that was born or previously resided on a different premises as long as the records required in paragraph (b)(1)(iv) of this section are maintained.

(d) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles sheep or goats in interstate commerce must ensure that the animals are identified as required in this part and must keep records relating to the transfer of ownership, shipment, or handling of the sheep or goats, such as yarding receipts, sale tickets, invoices, and waybills.

(1) If official individual animal identification is required, the records must include the number of sheep and/or goats; the breed or cross if known; the name, street address, including city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person from whom the sheep or goats were purchased or otherwise obtained; and a copy of any documents required to accompany the animal including any certificate, owner statement, letter, or permit; and

(i) For animals not in slaughter channels the records must include all serial numbers and other approved means of identification appearing on the sheep or goat. This requirement may usually be met by maintaining a copy of the certificate that accompanied the animals. The premises number may be recorded instead of the individual numbers in the case of animals identified with premises identification if:

(A) The premises identification meets the requirements of paragraph (a)(2)(v) of this section for individual animal identification; or

(B) The animals are allowed to move interstate with only premises identification in accordance with § 79.3.

(ii) For animals in slaughter channels that are identified with individual animal identification traceable to the flock of origin or that are identified to

the flock of origin with official premises identification that meets the requirements for individual animal identification, no additional records are required;

(iii) For animals in slaughter channels that are identified with individual animal identification traceable to a previous flock but not to the flock of origin, or that are identified with official premises identification that meets the requirements for individual animal identification that is traceable to a previous flock but not to the flock of origin, the records must include all serial numbers and other approved means of identification appearing on the sheep or goat;

(iv) For animals that are not required to be identified until they reach their final destination, the records must include the final destination.

(2) If official premises identification is required or allowed, the records must include:

(i) The premises identification number(s) and the number of animals identified with each premises number;

(ii) Copies of any required documents such as the brand inspection certificate, an owner's statement, an accredited veterinarian's statement, or a health certificate;

(iii) The name, street address, including city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person from whom the sheep or goats were purchased or otherwise obtained.

(3) Each person required to keep records under this paragraph must maintain the records for at least 5 years after the person has sold or otherwise disposed of the sheep or goat to another person, and for such further period as the Administrator may require by written notice to the person, for purposes of any investigation or action involving the sheep or goat identified in the records. The person must make the records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) by any authorized employee of the United States Department of Agriculture or the State, upon

that employee's request and presentation of his or her official credentials.

(e) No person may remove or tamper with any means of identification required to be on sheep or goats pursuant to this section while the animals are in interstate commerce, and, at the time of slaughter, animal identification must be maintained throughout post-mortem inspection in accordance with regulations of the Food Safety and Inspection Service, U.S. Department of Agriculture, in chapter III of this title.

(f) *Requirements for approval of official premises and individual identification tags.* (1) The Administrator may approve tag companies to produce official premises and/or individual identification tags for use on sheep or goats. Tags may be plastic or metal and must be an appropriate size for use in sheep and goats. Tags must be able to legibly accommodate the required alphanumeric sequences. Tags must resist removal and be difficult to place on another animal once removed, but need not be tamper-proof. Tags must be readily distinguishable as USDA official sheep and goat tags, must carry the alphanumeric sequences, symbols, or logos specified by APHIS, and must have a means of discouraging counterfeiting, such as use of a unique copywrited logo or trade mark. Tags for use only on animals in slaughter channels must be marked with the words "Meat" or "For Slaughter Only," or else must be used in conjunction with an ear tattoo of the word "Meat."

(2) Written requests for approval of official premises identification tags for sheep and goats should be sent to the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, Attention: National Scrapie Program Coordinator, 4700 River Road Unit 43, Riverdale, MD 20737-1235. The request must include:

(i) Data supporting the durability of the tag and durability and legibility of the identification numbers and high retention rates of the tags in animals, preferably sheep and/or goats. Preference will be given to tags with high legibility and retention rates in sheep and goats that minimize injury to the ear.

- (ii) A signed statement agreeing to:
 - (A) Send official eartags only to a State or APHIS representative, to a flock owner at the address to which the premises number or tag sequence was assigned by a State or APHIS representative, or as directed by APHIS;
 - (B) Provide a monthly report by State of all tags produced, including the tag sequences produced and the person's and address to which the tags were shipped; and
 - (C) When required by APHIS, enter the sequences of tags shipped into the National Scrapie Database through a web page interface or other means specified by APHIS.
- (iii) Twenty-five sample tags. Additional tags must be submitted if requested by APHIS.
- (3) Approval to produce official premises and/or individual identification tags will be valid for 1 year and must be renewed annually. The Administrator may also grant approval to produce tags for periods of less than 1 year in cases where all of the submissions required by this section have not been received or evaluated but there is substantial evidence that the tags meet the requirements of this section. The Administrator may decline to renew a company's approval if the tags do not show adequate retention and durability in field use or if any of the requirements of this section are not met by the tag company. If a company's tags do not show adequate retention and durability in field use or if any of the requirements of this section are not met by the tag company, the approval may be withdrawn with 60 days

written notice. Any person who is approved to produce official premises or individual identification tags in accordance with this section and who knowingly produces tags that are not in compliance with the requirements of this section, and any person who is not approved to produce such tags but does so, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 7 U.S.C. 8313, or other applicable Federal statutes. Such action may be in addition to, or in lieu of, withdrawal of approval to produce tags.

(g) *New types of identification.* Written requests for approval of sheep or goat identification devices and markings not listed in paragraph (a)(2) of this section should be sent to the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737-1235. If the Administrator determines that the devices and markings will provide a means of tracing sheep and goats in interstate commerce, a proposal will be published in the FEDERAL REGISTER to add the devices and markings to the list of approved means of sheep and goat identification.

[66 FR 43990, Aug. 21, 2001, as amended at 68 FR 6343, Feb. 7, 2003; 69 FR 64650, Nov. 8, 2004]

§ 79.3 General restrictions.

The following prohibitions and movement conditions apply to the interstate movement of sheep and goats, and no sheep or goat may move interstate except in compliance with them.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(a) Sale or other movement of breeding animals, show animals or any other animal not specifically addressed in this chart. General Condition: No animal may be removed from slaughter channels in interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked "meat" or "slaughter only," or was sold with a bill of sale marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.—		

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(1) High-risk, scrapie-positive, or suspect animals, or animals from a noncompliant flock.	Prohibited ¹	Prohibited ¹
(2) Non-high-risk animals from an infected or source flock that are not scrapie-positive or suspect animals.	Prohibited ¹	Prohibited, ¹ except as allowed in an approved scrapie control pilot project flock plan and must meet the requirements for exposed animals.
(3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and are not animals from an infected or source flock.	Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS recognized program, have official individual animal identification, and a permit. ² For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171. For any female animal moving for exhibition, the permit must include a statement by both the owner and the accredited veterinarian that the animal has not lambed or aborted within 30 days of being exhibited and is not due to lamb within 30 days of being exhibited and that there is no visible vaginal discharge. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	Official individual animal identification and a permit. ² For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171. For any female animal moving for exhibition, the permit must include a statement by both the owner and an accredited veterinarian that the animal has not lambed or aborted within 30 days of being exhibited and is not due to lamb within 30 days of being exhibited and that there is no visible vaginal discharge. For any animal born after 1–1–2002, the permit must include the flock of birth and the flock of origin, if different.
(4)(i) Sexually intact sheep except as allowed in (a)(7). (ii) Sexually intact goats, except for low-risk goats.	Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS-recognized program, have official individual animal identification, and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	Official individual animal identification and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.
(5) Sexually intact low-risk goats	Official individual animal identification and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	Official individual animal identification and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.
(6) Castrated animals that are not scrapie-positive or suspect animals.	Official individual animal identification and a certificate.	None, except for exposed animals that must have official individual animal identification.
(7) Low-risk commercial sheep	Official individual animal identification and a certificate, and the flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or an equivalent APHIS-recognized program. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	(i) Official premises identification that is a permanent brand or ear notch pattern registered with an official brand registry; (ii) A brand inspection certificate; (iii) An owner statement dated within 30 days stating that the animals were born in the flock, that the flock does not contain any animal exhibiting signs of scrapie, that to the best of his or her knowledge the flock has no risk factors for or exposure to scrapie, and that the flock has never contained: (A) Any animal diagnosed as having scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that were not born in the flock; and

Animal and Plant Health Inspection Service, USDA

§ 79.3

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(8) Commercial low-risk goats.	Official individual animal identification and a certificate. For any animal born after 1–1–2002, the certificate must include the flock of birth and the flock of origin, if different.	(iv) An accredited veterinarian's statement issued within 12 months of the date of movement indicating that, to the best of his or her knowledge, the flock has no known risk factors for or exposure to scrapie, and that he or she has inspected the flock and it does not contain: (A) Any animal exhibiting signs of scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that were not born in the flock. The statements must include the owner's name, address, and the premises identification number and a drawing of the owner's registered brand or ear notch pattern. None.
(b) Sale or other movement directly to slaughter, through slaughter channels to slaughter, or to feedlots for later movement to slaughter of animals that are under 18 months of age as evidenced by eruption of the second incisor, not pregnant, and have not lambed or kidded. General Condition: No animal may be removed from slaughter channels in interstate slaughter channels in interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked "meat" or "slaughter only," or was sold with a bill of sale marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.—		
(1) Scrapie-positive or suspect animal.	Prohibited ¹	Prohibited. ¹
(2) Sexually intact high-risk animals and sexually intact animals from infected or source flocks that are not scrapie-positive or suspect animals.	Official individual animal identification and a permit, or a permit and an indelible "S" mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots. ³)	Official individual animal identification and a permit, or a permit and an indelible "S" mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots. ³)
(3) Exposed sexually intact animals that are not scrapie-positive, suspect, or high-risk. animals and that are not animals from an infected or source flock.	Official individual animal identification for any animal that is not moving directly to slaughter or to a terminal feedlot. ^{3,4} (Note: pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots.)	Official individual animal identification for any animal that is not moving direct to slaughter or to a terminal feedlot. ^{3,4} (Note: Pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots.)
(4) Sexually intact sheep that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.	Official premises identification or official individual animal identification for any animal that is not moving direct to slaughter or to a terminal feedlot. ³	None.
(5) Sheep enrolled in the selective monitored or complete monitored category of the SFCP that are not scrapie-positive, suspect, high-risk, or exposed animals.	None	None.
(6) Castrated animals that are not scrapie-positive, or suspect animals.	None	None.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(7) Sexually intact goats that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.	None	None.
(c) Sale or other movement directly to slaughter, through slaughter channels to slaughter, or to feedlots for later movement to slaughter of animals that are over 18 months of age, as evidenced by eruption of the second incisor, or that are pregnant or that have lambed or kidded. General Condition: No animal may be removed from slaughter channels in interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked "meat" or "slaughter only," or was sold with a bill of sale marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.—		
(1) Scrapie-positive or suspect animal.	Prohibited ¹	Prohibited. ¹
(2) Sexually intact high-risk animals and sexually intact animals from an infected or source flock that are not scrapie-positive, or suspect animals.	Official individual animal identification and a permit, or a permit and an indelible "S" mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots. ³	Official individual animal identification and a permit, or a permit and an indelible "S" mark on the left jaw, or sealed conveyance and a permit. (Note: These animals may only be permitted to slaughter or to terminal feedlots. ³
(3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and are not animals from an infected or source flock.	Official individual animal identification and a permit, or a permit and an indelible "S" mark on the left jaw, or sealed conveyance and a permit when moving directly to slaughter. (Note: pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots. ^{3,4}	Official individual animal identification. (Note: pregnant animals and animals with a visible vaginal discharge may only be moved directly to slaughter or to terminal feedlots. ^{3,4}
(4) Sheep over 18 months of age that are not scrapie-positive, suspect, sexually intact high-risk, or sexually intact exposed animals and that are not sexually intact animals from an infected or source flock.	Official individual animal identification and a certificate. ⁴ .	Official individual animal identification. ⁴
(5) Low-risk commercial sheep	Official individual animal identification and a certificate. ⁴ .	(i) Official premises identification that is a permanent legible brand or ear notch pattern registered with an official brand registry or, in the case of animals moving directly to slaughter, may be a legible paint brand registered with an official brand registry; (ii) A brand inspection certificate; (iii) An owner statement dated within 30 days of the movement stating that the flock does not contain any animal exhibiting signs of scrapie, and that, to the best of his or her knowledge, the flock has no risk factors for or exposure to scrapie and has never contained: (A) Any animal diagnosed as having scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that was not born in the flock;

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§ 79.3

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(6) Goats that are not scrapie-positive, suspect, sexually intact high-risk, or sexually intact exposed animals and that are not sexually intact animals from an infected or source flock.	None	(iv) An accredited veterinarian's statement issued within 12 months of the date of movement indicating that, to the best of his or her knowledge, the flock has no known risk factors for or exposure to scrapie, and that he or she has inspected the flock and it does not contain: (A) Any animal exhibiting signs of scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that was not born in the flock. The statements must include the owner's name, address, and the premises identification number and a drawing of the owner's registered brand or ear notch pattern. ⁴
(d) Movement of animals for grazing or other management purposes without change of ownership.—		None.
(1) Scrapie-positive, suspect, or sexually intact high-risk animals.	Prohibited ¹	Prohibited. ¹
(2) Non-high-risk animals from an infected or source flock.	Prohibited ¹	Prohibited, ¹ except as allowed in an approved scrapie control pilot project flock plan and must meet the requirements for exposed animals.
(3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and that are not animals from an infected or source flock.	Official individual animal identification and a permit. ² For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171.	Official individual animal identification and a permit. ² For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171.
(4) Sexually intact sheep or sexually intact goats that have been commingled with sheep and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.	Official premises identification and a certificate..	None.
(5) Sexually intact goats that have not been commingled with sheep and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.	None	None.
(6) Castrated animals that are not scrapie-positive or suspect animals and are not an animal from an infected or source flock.	None	None.

¹ Animals prohibited movement may be moved interstate only if they are moving interstate for destruction or research as approved by the Administrator.

² A copy of the permit must be sent to the State veterinarian and the AVIC of the receiving State prior to movement of animals.

³ No exposed or high-risk animal from any State or any animal from an Inconsistent State shall be removed from slaughter channels once it has entered interstate commerce.

⁴ Official individual animal identification or official premises identification is not required for these slaughter animals if the animals are kept as a group on the same premises on which they were born or used for breeding purposes and are not commingled with animals from another premises at any time, including throughout the feeding, marketing, and slaughter process.

§ 79.4 Designation of scrapie-positive animals, high-risk animals, exposed animals, suspect animals, exposed flocks, infected flocks, noncompliant flocks, and source flocks; notice to owners.

(a) *Designation.* A designated scrapie epidemiologist will designate an animal to be a scrapie-positive animal, high-risk animal, exposed animal, or suspect animal after determining that the animal meets the criteria of the relevant definition in § 79.1.

(1) A State or APHIS veterinarian will designate an animal to be a suspect animal after determining that the animal meets the criteria of the relevant definition in § 79.1.

(2) A designated scrapie epidemiologist will designate a flock to be a source, infected, or exposed flock after reviewing sale, movement, and breeding records that indicate the flock meets the criteria of the relevant definition in § 79.1.

(i) A designated scrapie epidemiologist may conduct testing of animals if he or she determines such testing is needed to properly designate a flock to be a source, infected, or exposed flock. The designated scrapie epidemiologist will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Flocks meeting the definition of infected or source flocks that are designated as exposed flocks must complete a post exposure monitoring and management plan. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter.

(ii) If an owner does not make his or her animals available for testing within 60 days of notification or as mutually agreed or fails to submit required postmortem samples, the flock will be designated a source, infected, or ex-

posed flock, whichever definition applies. Any flock that is pending designation must comply with the movement restrictions for infected flocks.

(3) A designated scrapie epidemiologist will designate a flock to be a non-compliant flock after determining that the flock meets the definition of a non-compliant flock in § 79.1.

(b) *Redesignation.* (1) A designated scrapie epidemiologist may reclassify an animal designated a high-risk animal as an exposed animal after receiving negative results from an official test or in accordance with an approved Scrapie Control Pilot Project.

(2) A State or APHIS veterinarian may remove the suspect animal designation from an animal that had clinical signs of scrapie and that did not test positive for scrapie or for the proteinase resistant protein associated with scrapie upon determination that it is alive and no longer exhibits such signs, or that the signs are not caused by scrapie.

(3) A designated scrapie epidemiologist may remove the suspect animal designation from an animal that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on an unofficial test based on knowledge of the test used or based on an epidemiologic investigation which may include additional testing of the suspect animal and or animals that have been commingled with the suspect animal.

(4) A designated scrapie epidemiologist may remove the suspect animal designation from an animal that tested positive on a live-animal screening test based on an epidemiologic investigation which includes additional official testing of the suspect animal and when appropriate, animals that have been commingled with the suspect animal.

(5) A designated scrapie epidemiologist may remove the exposed flock designation after completing an epidemiologic investigation or upon completion of a post-exposure management and monitoring plan. As part of the epidemiologic investigation the designated scrapie epidemiologist may conduct testing of animals if he or she determines such testing is needed to properly redesignate the flock. The designated scrapie epidemiologist will

select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter. A designated scrapie epidemiologist shall redesignate an exposed flock as a noncompliant flock if the owner fails to make his animals available for testing within 60 days of notification or as mutually agreed or fails to submit required postmortem samples.

(6) Based on an epidemiologic investigation and testing, a designated scrapie epidemiologist may redesignate an infected flock or source flock as an exposed flock. The designated scrapie epidemiologist may only use this option when the epidemiologic investigation reveals that the scrapie exposure was minor or could not be confirmed due to inadequate records. The designated scrapie epidemiologist will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter. Infected or source flocks that are redesignated as exposed flocks must complete a post exposure monitoring and management plan. If an owner does not make his or her animals available for testing within 60

days of notification or as mutually agreed or fails to submit required postmortem samples, the flock designation will remain unchanged.

(7) A designated scrapie epidemiologist may remove the noncompliant flock designation after reviewing any required testing of the flock and determining that the flock has complied with the required testing or no longer meets the definition of a noncompliant flock.

(8) A designated scrapie epidemiologist may redesignate an exposed animal, exposed flock, or infected flock by removing that designation after completing an epidemiologic investigation and determining that the exposure was limited to a scrapie-positive male animal that was not born in the flock (the owner must have adequate records and animal identification to show that the scrapie-positive male animal was purchased).

(c) *Notice to owner.* As soon as possible after making such a determination, a State or APHIS representative will attempt to notify the owner(s) of the flock(s) in writing that their flock contained or contains a scrapie-positive animal, a suspect animal, a high-risk animal or an exposed animal, or that the flock is an infected, source, exposed, or noncompliant flock or that the flock is pending designation as an infected, source, exposed, or noncompliant flock. The notice will include:

(1) A description of the interstate movement restrictions and identification requirements;

(2) Reporting requirements;

(3) Sample submission requirements for suspect and high-risk animals contained in this part;

(4) Options for controlling the spread of scrapie from, and eradicating scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal; and

(5) In the case of flocks that are pending designation the notification shall include the testing options available to them and the designation their flock will receive if they decline to test.

§ 79.5 Issuance of certificates.

(a) Certificates are required as specified by § 79.3 for certain interstate movements of animals. A certificate must show the official ear tag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, and any other official individual identification of each animal to be moved; *provided that*, in the case of animals identified with premises identification⁴ that is assigned to the flock of origin and that meets the requirements for individual animal identification, the premises number may be recorded instead of the individual identification numbers. A certificate must also show the number of animals covered by the certificate; the purpose for which the animals are to be moved; the points of origin and destination; the consignor, and the consignee. Certificates must indicate the flock of birth for any breeding sheep born after January 1, 2002, that are covered by the certificate. The certificate must include a statement by the issuing accredited or State or Federal veterinarian that the animals were not exhibiting clinical signs associated with scrapie at the time of examination and an owner statement indicating whether the animal is or is not a scrapie-positive, suspect, high-risk or exposed animal and whether it originated in an infected, source, exposed, or noncompliant flock. Except as provided in paragraphs (b) and (c) of this section, all of the information required by this paragraph must be typed or written on the certificate. Note that in accordance with § 79.3(a), (b), and (c), scrapie-positive, suspect, and high-risk animals, some exposed animals, and animals that originated in an infected or source flock require permits rather than certificates.

⁴Ownership brands may be used on certificates for sheep and goats moved interstate when premises identification is required under this part, provided the ownership brands are legible and are registered with the official brand recording agency and the animals are accompanied by a brand inspection certificate.

(b) *Animal identification documents attached to certificates.* As an alternative to typing or writing individual animal identification on a certificate, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a State form or APHIS form that requires individual identification of animals;

(2) A legible copy of the document must be stapled to the original and each copy of the certificate;

(3) Each copy of the document must identify each animal to be moved with the certificate, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be typed or written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

(c) *Ownership brands documents attached to certificates.* As an alternative to typing or writing ownership brands on a certificate, an official brand inspection certificate may be used to provide this information, but only under the following conditions:

(1) A legible copy of the official brand inspection certificate must be stapled to the original and each copy of the certificate;

(2) Each copy of the official brand inspection certificate must show the ownership brand of each animal to be moved with the certificate, but any other ownership brands, and any unused space for recording ownership brands, must be crossed out in ink; and

(3) The following information must be typed or written in ink in the official identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the attached document; and

(ii) Either the serial number on the official brand inspection certificate or, if the official brand inspection certificate is not imprinted with a serial number, both the name of the person who prepared the official brand inspection certificate and the date it was signed.

§ 79.6 Standards for States to qualify as Consistent States.

(a) In reviewing a State for Consistent State status, the Administrator will evaluate the State statutes, regulations, and directives pertaining to animal health activities; reports and publications of the State animal health agency; and a written statement from the State animal health agency describing State scrapie control activities and certifying that these activities meet the requirements of this section. In determining whether a State is a Consistent State, the Administrator will determine whether the State:

(1) Has the authority, based on State law or regulation, to restrict the movement of all scrapie-infected and source flocks.

(2) Has the authority, based on State law or regulation, to require the reporting of any animal suspected of having scrapie and test results for any animals tested for scrapie to State or Federal animal health authorities.

(3) Has, in cooperation with APHIS personnel, drafted and signed a memorandum of understanding between APHIS and the State that delineates the respective roles of each in the National Scrapie Program implementation.

(4) Has placed all known scrapie-infected and source flocks under movement restrictions, with movement of animals only to slaughter, to feedlots under permit and movement restrictions that ensure later movement to slaughter, for destruction, or for research. Scrapie-positive and suspect animals may be moved only for transport to an approved research facility or for purposes of destruction.

(5) Has effectively implemented policies to:

(i) Investigate all animals reported as scrapie suspect animals within 7 days of notification;

(ii) Designate a flock's status, within 15 days of notification that the flock contains a scrapie-positive animal, based on an investigation by State or Federal animal health authorities and in accordance with this part;

(iii) Restrict the movement, in accordance with paragraph (a)(4) of this section, of newly designated scrapie-infected and source flocks within 7 days after they are designated in accordance with § 79.4;

(iv) Relieve infected and source flock movement restrictions only after completion of a flock plan created in accordance with § 54.14 of this chapter or a flock plan created in accordance with an approved scrapie control pilot project, or as permitted by the conditions of such a flock plan, and after agreement by the owner to comply with a 5-year post-exposure management and monitoring plan;

(v) Conduct an epidemiologic investigation of source and infected flocks that includes the designation of high-risk and exposed animals and that identifies animals to be traced;

(vi) Conduct tracebacks of scrapie-positive animals and traceouts of high-risk and exposed animals and report any out-of-State traces to the appropriate State within 45 days of receipt of notification of a scrapie-positive animal; and

(vii) Conduct tracebacks based on slaughter sampling within 15 days of receipt of notification of a scrapie-positive animal at slaughter.

(6) Effectively monitors and enforces quarantines.

(7) Effectively enforces State reporting laws and regulations for scrapie.

(8) Has designated at least one APHIS or State animal health official to coordinate scrapie program activities in the State and to serve as the designated scrapie epidemiologist in the State.

(9) Has educated those engaged in the interstate movement of sheep and goats regarding the identification and recordkeeping requirements of this part.

(10) Has provided APHIS with a plan and timeline for complying with the

following additional requirements, which must be met within 2 years of designation of the State as a Consistent State⁵:

(i) Requires, based on State law or regulation, and effectively enforces official identification upon change of ownership of all animals of any age not in slaughter channels and any sheep over 18 months of age as evidenced by eruption of the second incisor such that the animal may be traced to its flock of birth; provided that:

(A) A State may exempt commercial goats in intrastate commerce that have not been in contact with sheep from this identification requirement if there has been in that State no case of scrapie in a commercial goat in the past 10 years that originated in that State and cannot be attributed to exposure to infected sheep, and there are no exposed commercial goat herds in that State; and

(B) A State may exempt commercial whitefaced sheep or commercial hair sheep under 18 months of age in intrastate commerce from this identification requirement if there has been in that State no case of scrapie in the exempted class that originated from that State, and there are no exposed commercial whitefaced or hair sheep flocks in that State that have been exposed by a female animal.

(C) States that exempt these types of commercial animals must put in place the regulations necessary to require identification of these animals within 90 days of these conditions no longer existing.

(ii) Maintains in the National Scrapie Database administered by APHIS, or in a State database approved by the Administrator as compatible with the National Scrapie Database, the State's:

(A) Premises information and assigned premises numbers and individual identification number sequences assigned for use as premises identification;

(B) Individual animal information on all scrapie-positive, suspect, high-risk, and exposed animals in the State;

(C) Individual animal information on all out-of-State animals to be traced; and

(D) Accurate flock status data.

(iii) Requires official individual identification of any live scrapie-positive, suspect, or high-risk animal of any age and of any sexually intact exposed animal of more than 1 year of age or any sexually intact exposed animal of less than 1 year of age upon change of ownership (except for exposed animals moving in slaughter channels at less than 1 year of age), whether or not the animal resides in a source or infected flock.

(iv) Effectively enforces movement restrictions on all scrapie-positive, suspect, and high-risk animals throughout their lives unless they are moved in accordance with § 79.3.

(v) Requires that tissues from all scrapie-positive or suspect animals and female high-risk animals that have lambed (when they have died or have been destroyed) be submitted to a laboratory authorized by the Administrator to conduct scrapie tests and requires complete destruction of the carcasses of scrapie-positive and suspect animals.

(vi) Prohibits any animal from being removed from slaughter channels unless it is identified to the flock of birth, is not from an Inconsistent State, and is not scrapie-exposed or from an infected or source flock.

(b) If the Administrator determines that statutory changes are needed to bring a State into full compliance, the Administrator may grant up to a 2-year extension to allow a State to acquire additional authorities before removing a State's Consistent Status. The decision to grant an extension will be based on the State's ability to prevent the movement of scrapie-infected animals out of the State and on the progress being made in making the needed statutory changes.

§ 79.7 Waiver of requirements for scrapie control pilot projects.

(a) The Administrator may waive the following requirements of this part for participants in a scrapie control pilot

⁵This provision would apply until January 1, 2003. Any State designated as a Consistent State after that date would have to meet all requirements prior to designation.

project by recording the requirements waived in the scrapie control pilot project plan:

(1) The determination that an animal is a high-risk animal, if the scrapie control pilot project plan contains testing or other procedures that indicate that an animal, despite meeting the definition of high-risk animal, is unlikely to spread scrapie; and

(2) The requirement that high-risk animals must be removed from a flock, if the scrapie control pilot project plan contains alternative procedures to prevent the further spread of scrapie without removing high-risk animals from the flock.

(b) [Reserved]

PART 80—JOHNE'S DISEASE IN DOMESTIC ANIMALS

Sec.

80.1 Definitions.

80.2 General restrictions.

80.3 Movement of domestic animals that are positive to an official Johne's disease test.

80.4 Segregation of animals positive to an official Johne's disease test during interstate movement.

AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 65 FR 18878, Apr. 10, 2000, unless otherwise noted.

§ 80.1 Definitions.

The following definitions apply to this part:

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States. The AIN contains 15 digits, with the first 3 being the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording.

APHIS. The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Approved livestock facility. A stockyard, livestock market, buying station, concentration point, or any other premises that has been approved under § 71.20 of this chapter.

Area veterinarian in charge. An APHIS veterinarian authorized by the Administrator to supervise and manage the animal health work of APHIS in a specified area of the United States.

Interstate. From one State into or through any other State.

Johne's disease. An infectious and communicable disease that primarily affects cattle, sheep, goats, and other domestic, exotic, and wild ruminants, also known as paratuberculosis, caused by *Mycobacterium paratuberculosis*.

Moved. Shipped, transported, delivered, or received for movement, or otherwise aided, induced, or caused to be moved.

Official eartag. An identification tag providing unique identification for individual animals. An official eartag must bear the U.S. shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users. The official eartag must be tamper-resistant and have a high retention rate in the animal. Official eartags must adhere to one of the following numbering systems:

(1) National Uniform Eartagging System.

(2) Animal identification number (AIN).

(3) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in this section, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.

(4) Any other numbering system approved by the Administrator for the identification of animals in commerce.

Official Johne's disease test. An organism detection test approved by the

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Administrator and conducted in a laboratory approved by the Administrator.¹

Owner-shipper statement. A statement signed by the owner or shipper of animals, which states: The number of animals to be moved, the official eartag number of each animal, the species of the animals, points of origin and destination, the consignor and consignee, a statement that the animals are positive to an official Johne's disease test, and any additional information required by this part.

Premises identification number (PIN). A unique number assigned by a State or Federal animal health authority to a premises that is, in the judgment of the State or Federal animal health authority, a geographically distinct location from other livestock production units. The premises identification number is associated with an address or legal land description and may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. The premises identification number may consist of:

(1) The State's two-letter postal abbreviation followed by the premises' assigned number; or

(2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

Recognized slaughtering establishment. A slaughtering establishment² operating under the Federal Meat Inspec-

tion Act (21 U.S.C. 601 *et seq.*) or a State inspected slaughtering establishment.

State. Any of the 50 States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the District of Columbia, and any territories and possessions of the United States.

State animal health official. The State official responsible for livestock and poultry disease control and eradication programs.

State representative. An individual employed in animal health work by a State or political subdivision of a State, and who is authorized by the State or political subdivision to perform tasks required by this part.

[65 FR 18878, Apr. 10, 2000, as amended at 69 FR 64650, Nov. 8, 2004]

§ 80.2 General restrictions.

Domestic animals that are positive to an official Johne's disease test may not be moved interstate except in compliance with this part.

§ 80.3 Movement of domestic animals that are positive to an official Johne's disease test.

(a) **Movement of domestic animals for slaughter.** Domestic animals that are positive to an official Johne's disease test may be moved interstate for slaughter if:

(1) The animals are moved directly to a recognized slaughtering establishment or to an approved livestock facility for sale to a recognized slaughtering establishment;

(2) An owner-shipper statement that identifies the animals as positive to an official Johne's disease test accompanies the animals during the movement and is delivered to the consignee;

(3) Each animal bears an official eartag; and

(4) The animals are moved to the destination in one continuous movement without unloading.

(b) **Other movements.** The Administrator may, upon request in specific cases, allow domestic animals that are positive to an official Johne's disease test to be moved interstate other than as provided in paragraph (a) of this section, under such conditions as the Administrator may prescribe in each case

¹A list of currently approved laboratories and the requirements for obtaining approval are available from the Diagnostic Bacteriology Laboratory, National Veterinary Services Laboratories, P.O. Box 844, Ames, Iowa 50010. The Administrator will approve laboratories to conduct an official Johne's disease test only after determining that the laboratory meets the check test proficiency requirements prescribed by the National Veterinary Services Laboratories. Approval will continue as long as such check test proficiency requirements are met on an annual basis.

²A list of recognized slaughtering establishments in any State may be obtained from an APHIS representative, the State animal health official, or a State representative.

to prevent the spread of Johne's disease. The Administrator will promptly notify the State animal health officials of the States involved of any such action.

(c) *Cleaning and disinfecting.* Each means of conveyance used to transport the animals must be cleaned and disinfected in accordance with §71.6 of this chapter. The facilities in which the animals were maintained must be cleaned and disinfected in accordance with §71.7 of this chapter.

§80.4 Segregation of animals positive to an official Johne's disease test during interstate movement.

Animals that are positive to an official Johne's disease test may not be moved interstate in a railroad car, boat, truck, or other vehicle containing healthy animals susceptible to Johne's disease unless all of the animals are for immediate slaughter, or unless the positive animals are kept separate from the other animals by a partition that is securely affixed to the sides of the vehicle and prevents the transfer of fecal matter from the animals positive to an official Johne's disease test to the healthy animals in the vehicle.

PART 81—CHRONIC WASTING DISEASE IN DEER, ELK, AND MOOSE

Sec.

81.1 Definitions.

81.2 Identification of deer, elk, and moose in interstate commerce.

81.3 General restrictions.

81.4 Issuance of certificates.

AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 71 FR 41705, July 21, 2006, unless otherwise noted.

EFFECTIVE DATE NOTE: At 71 FR 41705, July 21, 2006, part 81 was added, effective Oct. 19, 2006. At 71 FR 52983, Sept. 8, 2006, the effective date was delayed until further notice.

§81.1 Definitions.

Animal. Any farmed or captive deer, elk, or moose.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Animal identification. A device or means of animal identification approved for use under this part by APHIS. Examples of animal identification devices that APHIS has approved are listed in §55.25 of this chapter.

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States. The AIN contains 15 digits, with the first 3 being the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording.

APHIS employee. Any individual employed by the Animal and Plant Health Inspection Service who is authorized by the Administrator to do any work or perform any duty in connection with the control and eradication of disease.

Cervid. All members of the family Cervidae and hybrids, including deer, elk, moose, caribou, reindeer, and related species.

Chronic wasting disease (CWD). A transmissible spongiform encephalopathy of cervids. Clinical signs in affected animals include, but are not limited to, loss of body condition, behavioral changes, excessive salivation, increased drinking and urination, depression, and eventual death.

CWD-exposed animal. An animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 5 years.

CWD Herd Certification Program. The Chronic Wasting Disease Herd Certification Program established in part 55 of this chapter.

CWD-positive animal. An animal that has had a diagnosis of CWD confirmed by means of two official CWD tests as defined in §55.1 of this chapter.

CWD-suspect animal. An animal for which an APHIS employee or State representative has determined that unofficial CWD test results, laboratory evidence, or clinical signs suggest a diagnosis of CWD.

Deer, elk, and moose. All animals in the genera *Odocoileus*, *Cervus*, and *Alces* and their hybrids.

Farmed or captive. Privately or publicly maintained or held for economic

or other purposes within a perimeter fence or confined area, or captured from a free-ranging population for interstate movement and release.

Official animal identification. A device or means of animal identification approved for use under this part by APHIS to uniquely identify individual animals. Examples of approved official animal identification devices are listed in §55.25 of this chapter. The official animal identification must include a nationally unique animal identification number that adheres to one of the following numbering systems:

- (1) National Uniform Eartagging System.
- (2) Animal identification number (AIN).
- (3) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in this section, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.
- (4) Any other numbering system approved by the Administrator for the identification of animals in commerce.

Premises identification number (PIN). A unique number assigned by a State or Federal animal health authority to a premises that is, in the judgment of the State or Federal animal health authority, a geographically distinct location from other livestock production units. The premises identification number is associated with an address or legal land description and may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. The premises identification number may consist of:

- (1) The State's two-letter postal abbreviation followed by the premises' assigned number; or
- (2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

§81.2 Identification of deer, elk, and moose in interstate commerce.

Each animal required to be identified by this subpart must have at least two forms of animal identification attached to the animal. The means of animal identification must be approved for this use by APHIS, and must be an electronic implant, flank tattoo, ear tattoo, tamper-resistant ear tag, or other device approved by APHIS. One of the animal identifications must be an official animal identification as defined in this part, with a nationally unique animal identification number that is linked to that animal in the CWD National Database. The second animal identification must be unique for the individual animal within the herd and also must be linked to that animal and herd in the CWD National Database.

(Approved by the Office of Management and Budget under control number 0579-0237)

§81.3 General restrictions.

No farmed or captive deer, elk, or moose may be moved interstate unless it meets the requirements of this section.

(a) *Animals in the CWD Herd Certification Program.* The captive deer, elk, or moose is:

(1) Enrolled in the CWD Herd Certification Program and:

(i) If the movement occurs between October 19, 2006 and January 19, 2009, the herd has achieved at least Second Year status in accordance with §55.24 of this chapter;

(ii) If the movement occurs between January 19, 2009 and January 19, 2010, the herd has achieved at least Third Year status in accordance with §55.24 of this chapter;

(iii) If the movement occurs between January 19, 2010 and January 19, 2011, the herd has achieved at least Fourth Year status in accordance with §55.24 of this chapter;

(iv) If the movement occurs between January 19, 2011 and January 19, 2012, the herd has achieved at least Fifth Year status in accordance with §55.24 of this chapter;

(v) If the movement occurs after January 19, 2012, the herd has achieved

Certified status in accordance with §55.24 of this chapter; and

(2) The farmed or captive deer, elk, or moose is accompanied by a certificate issued in accordance with §81.4 of this part that identifies its herd of origin and its herd's CWD Herd Certification Program status, and states that it is not a CWD-positive, CWD-exposed, or CWD-suspect animal.

(b) *Animals captured for interstate movement and release.* If the captive deer, elk, or moose was captured for interstate movement and release from a free-ranging population, each animal must have two forms of animal identification, one of which is official animal identification, and a certificate accompanying the animal must document the source population to be low risk for CWD, based on a CWD surveillance program that is approved by the State Government of the receiving State and by APHIS.

(c) *Animals moved to slaughter.* The farmed or captive deer, elk, or moose must be moved directly to a recognized slaughtering establishment for slaughter, must have two forms of animal identification, one of which is official animal identification, and must be accompanied by a certificate issued in accordance with §81.4.

(d) *Research animal movements and permits.* A research animal permit is required for the interstate movement of cervids for research purposes. The permit will specify any special conditions of the movement determined by the Administrator to be necessary to prevent the dissemination of CWD. The Administrator may, at his or her discretion, issue the permit if he or she determines that the destination facility has adequate biosecurity and that the movement authorized will not result in the interstate dissemination of CWD.

(1) To apply for a research animal permit, contact an APHIS employee or State representative and provide the following information:

(i) The name and address of the person to whom the special permit is issued, the address at which the research cervids to be moved interstate are being held, and the name and address of the person receiving the cervids to be moved interstate;

(ii) The number and type of cervids to be moved interstate;

(iii) The reason for the interstate movement;

(iv) Any safeguards in place to prevent transmission of CWD during movement or at the receiving location; and

(v) The date on which movement will occur.

(2) A copy of the research animal permit must accompany the cervids moved, and copies must be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination at least 72 hours prior to the arrival of the cervids at the destination listed on the research animal permit.

(e) *Interstate movements approved by the Administrator.* Notwithstanding any other provision of this part, interstate movement of farmed or captive deer, elk, and moose may be allowed on a case-by-case basis when the Administrator determines that adequate survey and mitigation procedures are in place to prevent dissemination of CWD and issues a permit for the movement.

§81.4 Issuance of certificates.

(a) *Information required on certificates.* A certificate must show any official animal identification numbers of each animal to be moved. A certificate must also show the number of animals covered by the certificate; the purpose for which the animals are to be moved; the points of origin and destination; the consignor; and the consignee. The certificate must include a statement by the issuing accredited veterinarian, State veterinarian, or Federal veterinarian that the animals were not exhibiting clinical signs associated with CWD at the time of examination and that the animals are from a herd participating in the CWD Herd Certification Program, and must provide the herd's program status; *Except that*, certificates issued for animals moved directly to slaughter do not need to state that the animals are from a herd participating in the CWD Herd Certification Program and must state that an APHIS employee or State representative has been notified in advance of the date the animals are being moved to slaughter.

(b) *Animal identification documents attached to certificates.* As an alternative to typing or writing individual animal identification on a certificate, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a State form or APHIS form that requires individual identification of animals;

(2) A legible copy of the document must be stapled to the original and each copy of the certificate;

(3) Each copy of the document must identify each animal to be moved with the certificate, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be typed or written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who issued the document and the date the document was issued.

(Approved by the Office of Management and Budget under control number 0579–0237)

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS

Subpart A—Exotic Newcastle Disease (END)

Sec.

82.1 Definitions.

82.2 Criteria for determining birds or poultry to be infected with, exposed to, or free from END.

82.3 Quarantined areas.

82.4 General provisions.

82.5 Interstate movement of live birds and live poultry from a quarantined area.

82.6 Interstate movement of dead birds and dead poultry from a quarantined area.

82.7 Interstate movement of manure and litter from a quarantined area.

82.8 Interstate movement of eggs, other than hatching eggs, from a quarantined area.

82.9 Interstate movement of hatching eggs from a quarantined area.

82.10 Interstate movement of vehicles, cages, coops, containers, troughs, and other equipment from a quarantined area.

82.11 Issuance of permits.

82.12 Other interstate movements and special permits.

82.13 Denial and withdrawal of permits and special permits.

82.14 Removal of quarantine.

82.15 Replacement birds and poultry.

82.16 Extraordinary emergencies: applicability of regulations.

Subpart B—Chlamydiosis in Poultry

82.19 Definitions.

82.20 General restrictions.

82.21 Vehicles, cages, coops, containers, troughs, and other equipment used for infected poultry.

82.22 Cleaning and disinfecting premises.

82.23 Issuance of permits.

82.24 Other interstate movements and special permits.

82.25 Denial and withdrawal of permits and special permits.

AUTHORITY: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 61 FR 56883, Nov. 5, 1996, unless otherwise noted.

Subpart A—Exotic Newcastle Disease (END)

§ 82.1 Definitions.

As used in connection with this subpart, the following terms shall have the meaning set forth in this section.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Bird. Any member of the class *aves* other than poultry.

Dressed carcasses. Carcasses of birds or poultry that have been eviscerated, with heads and feet removed.

END. Any velogenic Newcastle disease. END is an acute, rapidly spreading, and usually fatal viral disease of birds and poultry.

Exposed. At risk of developing END because of association with birds or poultry infected with END, excrement from birds or poultry infected with END, or other material touched by birds or poultry infected with END, or

because there is reason to believe that association has occurred with END or vectors of END, as determined by either a Federal veterinarian or a State veterinarian.

Federal representative. An individual employed and authorized by the Federal government to perform the tasks required by this subpart.

Federal veterinarian. A veterinarian employed and authorized by the Federal government to perform the tasks required by this subpart.

Hatching eggs. Eggs in which birds or poultry are allowed to develop.

Infected. Affected by the virus or bacterium that causes the specified disease.

Interstate. From one State into or through any other State.

Known to be exposed. Determined by either a Federal veterinarian or a State veterinarian to be at risk of developing END because of association with birds or poultry infected with END, excrement from birds or poultry infected with END, or other material touched by birds or poultry infected with END, or because there is reason to believe that association has occurred with END or vectors of END, as determined by either a Federal veterinarian or a State veterinarian.

Known to be infected. Determined by either a Federal veterinarian or a State veterinarian to be affected by the virus or bacterium that causes the specified disease.

Litter. Material that is used to collect and absorb bodily wastes from birds or poultry.

Moved. Shipped, transported or otherwise moved, or delivered or received for movement, by any person.

Official seal. A serially numbered metal or plastic strip, consisting of a self-locking device on one end and a slot on the other end, that forms a loop when the ends are engaged and that cannot be reused if opened, or a serially numbered, self-locking button that can be used for this purpose.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

Pet bird. Any bird that is kept for personal pleasure and is not for sale.

Poultry. Chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, and turkeys.

Recognized slaughtering establishment. Any slaughtering facility operating under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), or State meat or poultry inspection acts.

Render. Reduce, convert, or melt down by heating to a temperature of at least 230 °F so that oil is removed.

State. Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

State animal health official. The State official responsible for livestock- and poultry-disease control and eradication programs.

State representative. An individual employed in animal health work and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

State veterinarian. A veterinarian employed and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

Veterinarian in charge. A Federal veterinarian employed by the Animal and Plant Health Inspection Service and authorized by the Administrator to supervise and manage the animal health work of the Animal and Plant Health Inspection Service in a specified area of the United States.

§ 82.2 Criteria for determining birds or poultry to be infected with, exposed to, or free from END.

(a) The determination that birds or poultry are infected with END must be made by either a Federal veterinarian or a State veterinarian.¹ They will base that determination on one or more of the following factors: clinical evidence

¹The location of Federal veterinarians and State veterinarians may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Unit 41, Riverdale, MD 20737-1231, or by referring to the local telephone book.

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(signs, post-mortem lesions, and history of the occurrence of END); diagnostic tests;² or epidemiological evidence (evaluation of clinical evidence and the degree of risk posed by the potential spread of END based on population and exposure factors, including evaluation of whether the birds and poultry have had the opportunity to be in contact with birds or poultry infected with END or with excrement from birds or poultry infected with END, or if the birds and poultry have shared feed or water with birds or poultry infected with END).

(b) The determination that birds or poultry are exposed to END must be made by either a Federal veterinarian or a State veterinarian. They will base that determination on an evaluation of all related circumstances, including: the proximity of the birds or poultry to birds or poultry infected with END, to excrement from birds or poultry infected with END, and to other material touched by birds or poultry infected with END; the number of birds or poultry infected with END to which the birds or poultry were exposed; the species involved; the virulence of the END to which the birds or poultry were exposed; and the length of time the birds or poultry were in contact with birds or poultry infected with END, and to material touched by birds or poultry infected with END. Birds or poultry determined to be exposed to END will continue to be treated as exposed unless they are subsequently determined to be infected with END or until either a Federal veterinarian or a State veterinarian finds them to be free of END based on one or more of the factors listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 0579–0116)

²A copy of the protocols for END diagnostic tests may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737–1231. The protocols are also found in “Recommended Uniform Diagnostic Procedures,” published by the Committee of the American Association of Veterinary Laboratory Diagnosticians.

§ 82.3 Quarantined areas.

(a) Any area where birds or poultry infected with END are located will be designated as a quarantined area. A quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END. Less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as this subpart.

(b) Any area designated as a quarantined area because of END will remain designated as a quarantined area until all of the requirements of § 82.14 have been met.

(c) The following areas are quarantined because of END: There are no areas in the United States quarantined because of END.

[61 FR 56883, Nov. 5, 1996, as amended at 67 FR 70675, Nov. 26, 2002; 68 FR 1517, Jan. 13, 2003; 68 FR 3376, Jan. 24, 2003; 68 FR 7413, Feb. 14, 2003; 68 FR 18532, Apr. 16, 2003; 68 FR 26987, 26989, May 19, 2003; 68 FR 34781, June 11, 2003; 68 FR 45744, Aug. 4, 2003; 68 FR 54800, Sept. 19, 2003]

§ 82.4 General provisions.

(a) *Prohibitions.* The following articles may not be moved interstate from a quarantined area:

(1) Dead birds and dead poultry, including any parts of the birds or poultry, that are infected with END, or are from a flock of birds or poultry infected with END;

(2) Litter used by or manure generated by birds or poultry, or a flock of birds or poultry, infected with END;

(3) Any eggs from birds or poultry, or a flock of birds or poultry, infected with END;

(4) Hatching eggs from flocks of birds or poultry exposed to END; and

(5) Live birds or live poultry from flocks infected with or exposed to END.

(b) *Restrictions.* The following articles may be moved interstate from a quarantined area only in accordance with this subpart:

(1) Live birds or live poultry not known to be infected with or exposed to END;

(2) Dressed carcasses of birds and poultry, and other dead birds and dead poultry, including any parts of the birds or poultry, that are not known to be infected with END;

(3) Litter used by or manure generated by birds or poultry not known to be infected with END;

(4) Eggs, other than hatching eggs, from birds or poultry from flocks not known to be infected with END;

(5) Hatching eggs from birds or poultry not known to be infected with or exposed to END; and

(6) Cages, coops, containers, troughs, vehicles, or other equipment used for birds, poultry, eggs, manure, or litter.

(c) *Exceptions.* This subpart does not apply to the interstate movement of birds, poultry, or other articles from a quarantined area if the interstate movement is made by the United States Department of Agriculture for purposes of research or diagnosis.

§ 82.5 Interstate movement of live birds and live poultry from a quarantined area.

(a) *Pet birds.* An individual may move his or her pet birds interstate from a quarantined area if the birds are not known to be infected with or exposed to END and:

(1) The birds are accompanied by a permit obtained in accordance with § 82.11;

(2) Epidemiological evidence, as described in § 82.2(a), indicates that the birds are not infected with any communicable disease;

(3) The birds show no clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite) during the 90 days before interstate movement;

(4) The birds have been maintained apart from other birds and poultry in the quarantined area during the 90 days before interstate movement;

(5) The birds have been under the ownership and control of the individual to whom the permit is issued for the 90 days before interstate movement;

(6) The birds are moved interstate by the individual to whom the permit is issued;

(7) The birds are caged while being moved interstate;

(8) The individual to whom the permit is issued maintains ownership and control of the birds and maintains them apart from other birds and poultry from the time they arrive at the place to which the individual is taking them until a Federal representative or State representative³ examines the birds and determines that the birds show no clinical signs of END. The examination will not be less than 30 days after the interstate movement;

(9) The individual to whom the permit is issued allows Federal representatives and State representatives to examine the birds at any time until they are declared free of END by either a Federal veterinarian or a State veterinarian;

(10) Within 24 hours of a bird's dying or showing clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite), the individual to whom the permit is issued notifies the veterinarian in charge or the State animal health official⁴ in the State to which the birds are moved; and

(11) The individual to whom the permit is issued submits copies of the permit so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds at the destination listed on the permit.

(b) *Other birds and poultry.* Except as provided for pet birds in paragraph (a) of this section, a person may move live birds and live poultry that are not known to be infected with or exposed to END interstate from a quarantined area only if:

(1) The birds and poultry are accompanied by a permit obtained in accordance with § 82.11;

³The location of Federal representatives and State representatives may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231.

⁴The location of the veterinarian in charge or the State animal health official may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231, or by referring to the local telephone book.

(2) The birds or poultry are covered in such a way as to prevent feathers and other debris from blowing or falling off the means of conveyance;

(3) The birds or poultry are moved in a means of conveyance either under official seal or are accompanied by a Federal representative;

(4) Except for emergencies, the birds or poultry are not unloaded until their arrival at the destination listed on the permit required by paragraph (b)(1) of this section;

(5) If poultry, the poultry are moved interstate to a recognized slaughtering establishment⁵ and are slaughtered within 24 hours of arrival at the recognized slaughtering establishment;

(6) If birds other than poultry, the birds are moved to a site approved by the Administrator; and

(7) The permit required by paragraph (b)(1) of this section is presented upon arrival at the recognized slaughtering establishment or approved site to a State representative or Federal representative. Copies of the permit must also be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of arrival at the recognized slaughtering establishment.

(Approved by the Office of Management and Budget under control number 0579–0116)

§ 82.6 Interstate movement of dead birds and dead poultry from a quarantined area.

(a) Except as provided in paragraph (b) of this section for dressed carcasses, dead birds and dead poultry, including any parts of the birds and poultry, that are not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The dead birds and dead poultry are accompanied by a permit obtained in accordance with § 82.11;

(2) The dead birds and dead poultry are covered in such a way as to prevent feathers and other debris from blowing or falling off the means of conveyance;

(3) The dead birds and dead poultry are moved in a means of conveyance either under official seal or accompanied by a Federal representative;

(4) The dead birds and dead poultry are not unloaded until their arrival at the destination listed on the permit required by paragraph (a)(1) of this section;

(5) The dead birds and dead poultry are moved, without stopping, to the destination listed on the permit required by paragraph (a)(1) of this section, except for normal traffic conditions, such as traffic lights and stop signs;

(6) The dead birds and dead poultry are disposed of, within 24 hours after being loaded for interstate movement, by burial or composting in accordance with the procedures set forth in § 82.14(c)(1) and (c)(2), or by rendering, incineration, or other means approved by the Administrator as being adequate to prevent the dissemination of END; and

(7) Copies of the permit accompanying the dead birds and dead poultry interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the dead birds and dead poultry at the destination listed on the permit required by paragraph (a)(1) of this section.

(b) Dressed carcasses from birds and poultry that are not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The dressed carcasses are from birds or poultry that were slaughtered in a recognized slaughtering establishment;⁶

(2) The dressed carcasses are accompanied by a permit obtained in accordance with § 82.11;

(3) The dressed carcasses are moved in a means of conveyance either under official seal or accompanied by a Federal representative;

(4) The dressed carcasses are not unloaded until their arrival at the destination listed on the permit required by paragraph (b)(2) of this section;

(5) The dressed carcasses are moved, without stopping, to the destination

⁵A list of recognized slaughtering establishments in any State may be obtained from a Federal representative, the State animal health official, or a State representative.

⁶See footnote 5 to § 82.5.

listed on the permit required by paragraph (b)(2) of this section, except for normal traffic conditions, such as traffic lights and stop signs; and

(6) Copies of the permit accompanying the dressed carcasses interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the dressed carcasses at the destination listed on the permit required by paragraph (b)(2) of this section.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.7 Interstate movement of manure and litter from a quarantined area.

Manure generated by and litter used by birds or poultry not known to be infected with END may be moved interstate from a quarantined area only if:

(a) The manure and litter is accompanied by a permit obtained in accordance with § 82.11;

(b) The manure and litter has been heated throughout, in the quarantined area, to a temperature of not less than 175 °F (79.4 °C), and then placed either in a previously unused container or in a container that has been cleaned and disinfected, since last being used, in accordance with part 71 of this chapter;

(c) The declaration or affidavit required by § 82.11(b) lists the location of the poultry or birds that generated the manure or used the litter, and the name and address of the owner of the poultry or birds that generated the manure or used the litter; and

(d) Copies of the permit accompanying the manure and litter interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the manure and litter at the destination listed on the permit.

§ 82.8 Interstate movement of eggs, other than hatching eggs, from a quarantined area.

(a) Eggs, other than hatching eggs, from birds or poultry from flocks not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The eggs are accompanied by a permit obtained in accordance with § 82.11;

(2) The eggs have been cleaned and sanitized in accordance with 7 CFR part 59;

(3) The eggs are packed either in previously unused flats or cases or in used plastic flats or cases that were cleaned and disinfected, since last being used, in accordance with part 71 of this chapter;

(4) The eggs are moved to a facility where they are examined to ensure they have been cleaned and sanitized in accordance with paragraph (a)(2) of this section; and

(5) Copies of the permit accompanying the eggs interstate are submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the eggs at the facility.

(b) Any flats or cases intended for reuse after being used to move eggs interstate to a facility under this section must be cleaned and disinfected in accordance with part 71 of this chapter before being moved to a premises where birds or poultry are kept.

§ 82.9 Interstate movement of hatching eggs from a quarantined area.

Hatching eggs from birds or poultry not known to be infected with or exposed to END may be moved interstate from a quarantined area only if:

(a) The hatching eggs are accompanied by a permit obtained in accordance with § 82.11;

(b) Copies of the permit accompanying the hatching eggs are submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the hatching eggs at the premises described in paragraph (c) of this section; and

(c) The hatching eggs are held in the State of destination at a premises designated jointly by the veterinarian in charge and the State animal health official from the time of arrival until hatch and the birds and poultry hatched from the eggs are held at the designated premises for not less than 30

days following hatch. During this holding period, the eggs and any birds or poultry hatched from the eggs are subject to any inspections, disinfections, and tests as may be required by the Administrator to determine their freedom from END.

§ 82.10 Interstate movement of vehicles, cages, coops, containers, troughs, and other equipment from a quarantined area.

(a) This section does not apply to cages, coops, or other containers or equipment used by or to move pet birds moved interstate in accordance with § 82.5(a).

(b) Vehicles, cages, coops, containers, troughs, and other equipment that have held or that have otherwise been used in a quarantined area in the handling of birds or poultry or their eggs, or for manure generated by or litter used by the birds or poultry, may be moved interstate from a quarantined area only in accordance with the following conditions:

(1) They are made of hard plastic or metal, and the other conditions of this section are met; or

(2) They are made of a disposable material, such as cardboard, fiber, or waxed cardboard, are previously unused, and are disposed of by incineration without being reused after being moved interstate.

(c) Before moving interstate any vehicles, cages, coops, containers, troughs, or other equipment described in paragraph (b)(1) of this section, and after using these items to move birds, poultry, eggs, manure, or litter interstate from a quarantined area, the vehicles, cages, coops, containers, troughs, and other equipment must be cleaned and disinfected in accordance with paragraphs (c)(1) through (c)(5) of this section:

(1) Clean and disinfect the vehicles, cages, coops, containers, troughs, and other equipment at the place where the birds, poultry, eggs, manure, and litter are unloaded or where the equipment is used, no more than 2 hours after the birds, poultry, eggs, manure, and litter are unloaded or the equipment is used;

(2) Clean the items in accordance with part 71 of this chapter;

(3) Have a Federal representative or State representative⁷ inspect the items after they have been cleaned;

(4) Disinfect the items in the presence of a Federal representative or State representative; and

(5) Disinfect the items in accordance with part 71 of this chapter and by using a disinfectant as specified in part 71 of this chapter.

(d) If the place where the cleaning and disinfection would otherwise be required has no facilities for cleaning and disinfecting, the items may be moved to a place where facilities are available for cleaning and disinfecting, provided a Federal representative or State representative has determined that such movement will not cause a risk of the spread of END.

(e) Vehicles, cages, coops, containers, troughs, and other equipment that are moved interstate under this section must be accompanied by a permit obtained in accordance with § 82.11, and copies of the permit accompanying the vehicles, cages, coops, containers, troughs, and other equipment interstate must be submitted so that a copy is received by the State animal health official and the veterinarian in charge⁸ for the State of destination within 72 hours of the arrival of the vehicles, cages, coops, containers, troughs, and other equipment at the destination listed on the permit.

(Approved by the Office of Management and Budget under control number 0579–0116)

§ 82.11 Issuance of permits.

(a) Application for the permits required by this subpart to move interstate from a quarantined area birds, eggs, poultry, or other items requiring a permit under this part must be in writing. The application must be submitted to a Federal representative or State representative and must include the following:

(1) The applicant's name and mailing address;

(2) The name and mailing address of the person who will receive the birds, eggs, poultry, or other items;

⁷ See footnote 3 to § 82.5.

⁸ See footnote 4 of § 82.5.

(3) The addresses of both the origin and destination of the birds, eggs, poultry, or other items;

(4) The number and types of birds, poultry, eggs, and other items intended for interstate movement; and

(5) The reason for the interstate movement.

(b) In addition to the information required by paragraph (a) of this section, to obtain permits to move birds, poultry, eggs, manure, litter, cages, coops, containers, troughs, vehicles or other equipment interstate from a quarantined area, an applicant for a permit must submit to a Federal representative or State representative a declaration or affidavit listing the requirements of § 82.5 for live birds or live poultry, § 82.6 for dead birds and dead poultry, § 82.7 for litter or manure, § 82.8 for eggs other than hatching eggs, § 82.9 for hatching eggs, or § 82.10 for cages, coops, containers, troughs, vehicles, and other equipment, and stating that the applicant will move the items interstate only if all of the listed requirements are met.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.12 Other interstate movements and special permits.

(a) A special permit is required for the interstate movement of birds, poultry, or other items whose movement is restricted under this subpart, from a quarantined area in a manner or to a destination other than is specifically prescribed by this subpart, under special conditions determined by the Administrator to be necessary to prevent the dissemination of END. A special permit is required for the disposal of dead birds or dead poultry that are infected with END, or dead birds or dead poultry from flocks infected with END, or manure generated by or eggs from birds or poultry infected with END, in a manner other than is specifically prescribed in this subpart, and for cleaning and disinfection carried out in a manner other than is specifically prescribed in this subpart, under special conditions determined by the Administrator to be necessary to prevent the dissemination of END. To apply for a special permit, contact the veteri-

narian in charge⁹ for the State in which the birds, poultry, or other items are located. The Administrator may, at his or her discretion, issue special permits if he or she determines that the activity authorized will not result in the interstate dissemination of END.

(b) The special permit will list the name and address of the person to whom the special permit is issued, and the special conditions under which the interstate movement, disposal, or cleaning and disinfection may be carried out.

(1) For an interstate movement, the special permit will also include the following:

(i) The name and mailing address of the person who will receive the birds, poultry, or other items;

(ii) The addresses of both the origin and destination of the birds, poultry, or other items;

(iii) The number and type of birds, poultry, or other items to be moved interstate; and

(iv) The reason for the interstate movement.

(2) For destruction or cleaning and disinfection, the special permit will also include the following:

(i) The address of the place where the dead birds, dead poultry, manure, or eggs are located; and

(ii) The number and type of birds, poultry, or other items involved.

(c) For an interstate movement, a copy of the special permit must accompany the items moved, and copies must be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds, poultry, or other items at the destination listed on the special permit.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.13 Denial and withdrawal of permits and special permits.

(a) *Denial.* If the Administrator determines that the applicant for a permit or special permit is not complying with or could not comply with this subpart or any special conditions needed

⁹See footnote 4 to § 82.5.

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to prevent the dissemination of END, or, in the case of a special permit, that the special permit is not required under this subpart, the Administrator may deny the request for a permit or special permit. If the request is denied, the Administrator will send the applicant a written notice explaining why the permit or special permit was denied.

(b) *Withdrawal.* The Administrator may withdraw a permit or special permit, orally or in writing, if he or she determines the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit. The Administrator may withdraw the permit or special permit without advance notice if he or she determines that the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit in a way that threatens the public health, interest, or safety. The Administrator will send the person to whom the permit or special permit has been issued a written explanation of why the permit or special permit is to be or was withdrawn.

(c) *Appeals.* Denial or withdrawal of a permit or special permit may be appealed to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal must be in writing¹⁰ and must state all of the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn. The Administrator will grant or deny the appeal, in writing, explaining all of the reasons for the decision, as promptly as circumstances allow. In cases where there is a conflict as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with respect to the merits of the validity of the denial or withdrawal in accordance

with rules of practice adopted for the proceeding.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.14 Removal of quarantine.

An area will be removed from quarantine only when all of the following requirements have been met:

(a) All birds and poultry exposed to END in the quarantined area have been found to be free of END;

(b) All birds and poultry infected with END in the quarantined area have been euthanized;

(c) All birds and poultry, including any parts of the birds and poultry, euthanized in accordance with paragraph (b) of this section, and all birds and poultry in the quarantined area, including any parts of the birds and poultry, that died from any cause other than slaughter, have been buried, reduced to ashes by incineration, rendered, or reduced to dust by composting:

(1) If the birds and poultry are buried, all birds and poultry infected with END must be buried in the quarantined area. The birds and poultry must be buried in a location that meets all United States Environmental Protection Agency, State, and local requirements for landfills. They must be buried at least 6 feet deep and be covered at the time of burial with soil; and

(2) If the birds and poultry are composted, all birds and poultry infected with END must be composted in the quarantined area. The birds and poultry must be composted according to the following instructions:

(i) Place a 1-foot layer of litter and manure in a free-standing composter bin, unless the compost pile will be covered in accordance with paragraph (c)(2)(ii) of this section. Add a 6-inch layer of straw, peanut hulls, or wood chips. Add a layer of dead birds or dead poultry, leaving 6 inches between the carcasses and the bin walls. Add water sparingly and cover with 6 inches of a dry mixture of litter and manure. Repeat the layering process two more times and cap with a double layer of dry manure cake. After the bin is capped off and covered, monitor the temperature in the compost pile daily,

¹⁰ Written appeals should be sent to the Administrator, c/o Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737-1231.

using a 36-inch probe-type thermometer. The temperature of the compost pile must reach at least 140 °F. After 30 days from the date the compost pile is created, turn over to aerate the entire mixture. Allow mixture to reach at least 140 °F once again. After completion of the second cycle, the mixture must remain covered with any material that prevents penetration of air and moisture until spread or otherwise utilized. The composted material may not be spread or otherwise utilized until at least 30 days following completion of the second heating cycle.

(ii) Composting of birds and poultry may be accomplished outside of covered bins by following the layering and temperature requirements set forth in paragraph (c)(2)(i) of this section, then covering the compost pile with tarpaulins or 6-mm polyethylene sheets anchored with tires or straw bales. The mixture must be kept moist. The final product may not be spread or otherwise utilized until at least 30 days following completion of the second heating cycle.

(iii) Composting of birds and poultry must be carried out at least 50 yards from any building or pen where poultry and birds are housed and be inaccessible to birds and poultry. Composted material may not be commingled with, or otherwise be brought into contact with, non-composted manure cake;

(d) All eggs produced by birds or poultry infected with or exposed to END in the quarantined area have been buried, reduced to ashes by incineration, or rendered. If the eggs are buried, the eggs must be buried in the quarantined area in a location that meets all United States Environmental Protection Agency requirements and all State and local requirements for landfills. The eggs must be buried at least 6 feet deep and be covered at the time of burial with soil;

(e) All manure generated by or litter used by birds or poultry infected with or exposed to END in the quarantined area has been reduced to ashes by incineration, or has been buried, composted, or spread on a field and turned under, as follows:

(1) *Burial.* If the manure or litter is buried, the manure and litter must be buried at least 6 feet deep and covered at the time of burial with soil. The ma-

nure and litter must be buried in the quarantined area in a location that meets all United States Environmental Protection Agency and State and local requirements for landfills;

(2) *Composting.* If the manure and litter is composted, the manure and litter must be composted in the quarantined area according to the following method: Place the manure and litter in rows 3 to 5 feet high and 5 to 10 feet at the base. The area where the manure, litter, and other material used in composting are placed must be such that there is no runoff from the composted material out of the area, no saturation into the ground, and no moisture, except for that required by this paragraph, onto the composted material from above. The composting area must be at least 50 yards from any building or pen where birds or poultry are housed and be inaccessible to birds and poultry. The manure and litter must be mixed so as to attain a carbon to nitrogen ratio of approximately 30:1, a moisture content of between 40 to 50 percent, and a supply of oxygen to the composted material. If a carbon source other than manure or litter is needed, wood chips, straw, or peanut hulls may be used. The manure and litter must be covered with tarpaulin or 6-mm polyethylene sheets, be anchored with tires or straw bales, and be mixed to ensure adequate ventilation every 10 to 15 days. The composted material must rise to a temperature of 140 °F, as determined by use of a 36-inch probe-type thermometer. The composted material may not be spread or otherwise utilized for at least 30 days from the time the 140 °F temperature is reached; and

(3) *Spreading and turning under.* Spreading and turning under of manure or litter may be used as a means of disposal only if carried out under the direct supervision of a Federal representative or a State representative. If the manure or litter is spread on a field and turned under, the field must be in the quarantined area, at least 50 yards away from any building or pen where poultry or birds are housed, and inaccessible to birds and poultry. The manure or litter must be turned under within 24 hours of being spread on the field, and the field must be left undisturbed for at least 30 days;

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(f) All vehicles with which the birds or poultry infected with or exposed to END or their excrement or litter have had physical contact have been cleaned and disinfected in accordance with part 71 of this chapter. The vehicles have been inspected after cleaning, and before disinfection, by a Federal representative or State representative, and then have been disinfected in the presence of a Federal representative or State representative with a disinfectant listed in part 71 of this chapter;

(g) All cages, coops, containers, troughs, and other equipment used for birds or poultry infected with or exposed to END, or their excrement or litter have been reduced to ashes by incineration, or have been cleaned and disinfected in accordance with part 71 of this chapter. The items must be inspected after cleaning, and before disinfection, by a Federal representative or State representative, and then must be disinfected in the presence of a Federal representative or State representative, with a disinfectant listed in part 71 of this chapter; and

(h) The premises where birds or poultry infected with or exposed to END were located have been cleaned and disinfected in accordance with part 71 of this chapter. The premises have been inspected after cleaning, and before disinfection, by a Federal representative or State representative, and then have been disinfected in the presence of a Federal representative or State representative with a disinfectant listed in part 71 of this chapter.

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§ 82.15 Replacement birds and poultry.

Birds and poultry that have been destroyed because of a quarantine for END may not be replaced by birds or poultry moved interstate into the quarantined area until the Administrator decides that END has been eradicated and that replacement birds or poultry will not become infected with END.

§ 82.16 Extraordinary emergencies; applicability of regulations.

When, in accordance with sec. 10407 of the Animal Health Protection Act (7 U.S.C. 8306), the Secretary of Agri-

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culture determines that an extraordinary emergency exists because of END, the regulations in this subpart regarding interstate movement shall be applicable to intrastate movement within any State or portion of a State subject to the Secretary's declaration of extraordinary emergency until such time as the Secretary terminates that declaration.

[68 FR 1517, Jan. 13, 2003]

Subpart B—Chlamydiosis in Poultry

§ 82.19 Definitions.

As used in connection with this subpart, the following terms shall have the meaning set forth in this section.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Bird. Any member of the class *aves* other than poultry.

Chlamydiosis. A contagious bacterial disease of birds and poultry, characterized by respiratory and systemic infection. The disease is also known as psittacosis in psittacine birds and as ornithosis in poultry.

Federal representative. An individual employed and authorized by the Federal government to perform the tasks required by this subpart.

Federal veterinarian. A veterinarian employed and authorized by the Federal government to perform the tasks required by this subpart.

Infected. Affected by the virus or bacterium that causes the specified disease.

Interstate. From one State into or through any other State.

Moved. Shipped, transported or otherwise moved, or delivered or received for movement, by any person.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

Poultry. Chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, and turkeys.

State. Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

State animal health official. The State official responsible for livestock- and poultry-disease control and eradication programs.

State representative. An individual employed in animal health work and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

Veterinarian in charge. A Federal veterinarian employed by the Animal and Plant Health Inspection Service and authorized by the Administrator to supervise and manage the animal health work of the Animal and Plant Health Inspection Service in a specified area of the United States.

§ 82.20 General restrictions.

The following items may not be moved interstate:

- (a) Live poultry infected with chlamydiosis;
- (b) Dead poultry that were infected with chlamydiosis when they died, and parts of dead poultry that were infected with chlamydiosis when they died; and
- (c) Offal from poultry infected with chlamydiosis.

§ 82.21 Vehicles, cages, coops, containers, troughs, and other equipment used for infected poultry.

(a) Before moving vehicles, cages, coops, containers, troughs, and other equipment interstate that have held or have otherwise been used in the handling of poultry infected with chlamydiosis, and after using these items to move poultry infected with chlamydiosis interstate, the vehicles, cages, coops, containers, troughs, and other equipment must be cleaned and disinfected in accordance with para-

graphs (a)(1) through (a)(5) of this section:

(1) Clean and disinfect the vehicles, cages, coops, containers, troughs, and other equipment at the place where the poultry are unloaded or where the equipment is used, no more than 2 hours after the poultry infected with chlamydiosis are unloaded or the equipment is used;

(2) Clean the items in accordance with part 71 of this chapter;

(3) Have a Federal representative, State representative,¹ or an accredited veterinarian, inspect the items after they have been cleaned;

(4) Disinfect the items in the presence of a Federal representative, State representative, or an accredited veterinarian; and

(5) Disinfect the items in accordance with part 71 of this chapter and by using a disinfectant as specified in part 71 of this chapter.

(b) If the place where the cleaning and disinfection would otherwise be required has no facilities for cleaning and disinfecting, the items may be moved to a place where facilities are available for cleaning and disinfecting, provided a Federal representative or State representative has determined that such movement will not cause a risk of the spread of chlamydiosis.

(c) Vehicles, cages, coops, containers, troughs, and other equipment moved interstate under this section must be accompanied by a permit obtained in accordance with § 82.23, and copies of the permit accompanying the vehicles, cages, coops, containers, troughs, and other equipment interstate must be submitted so that a copy is received by both the State animal health official and the veterinarian in charge² for the State of destination within 72 hours of the arrival of the vehicles, cages, coops, containers, troughs, and other equipment at the destination listed on the permit.

(Approved by the Office of Management and Budget under control numbers 0579-0116 and 0579-0032)

¹See footnote 3 to § 82.5.

²See footnote 4 to § 82.5.

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§ 82.22 Cleaning and disinfecting premises.

Premises that contained poultry that were infected with chlamydiosis must be cleaned and disinfected in accordance with this section before any poultry are moved interstate onto the premises.

(a) The premises must be cleaned in accordance with part 71 of this chapter;

(b) After being cleaned, the premises must be inspected by a Federal representative, State representative, or an accredited veterinarian; and

(c) After being inspected, the premises must be disinfected in the presence of a Federal representative, State representative, or an accredited veterinarian, in accordance with part 71 of this chapter, using a disinfectant listed in part 71 of this chapter.

(Approved by the Office of Management and Budget under control numbers 0579-0116 and 0579-0032)

§ 82.23 Issuance of permits.

(a) Application for the permit required by this subpart to move vehicles, cages, coops, containers, troughs, or other equipment interstate must be in writing, and must be submitted to a Federal representative or State representative. The application must include the following:

(1) The applicant's name and mailing address;

(2) The name and mailing address of the person who will receive the items;

(3) The addresses of both the origin and destination of the items;

(4) The number and types of items intended for interstate movement; and

(5) The reason for the interstate movement.

(b) *Exceptions.* This subpart does not apply to the interstate movement of poultry, vehicles, cages, coops, containers, troughs, or other equipment or material if the interstate movement is made by the United States Department of Agriculture for the purposes of research or diagnosis.

(Approved by the Office of Management and Budget under control number 0579-0116)

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§ 82.24 Other interstate movements and special permits.

(a) A special permit is required for the interstate movement of items whose movement interstate is restricted under this subpart in a manner or to a destination other than is specifically prescribed by this subpart. A special permit is required for the disinfection of vehicles, premises, cages, coops, containers, troughs, and other equipment by a method other than is specifically prescribed by this subpart. To apply for a special permit, contact the veterinarian in charge for the State in which the items are located. The Administrator may, at his or her discretion, issue special permits if he or she determines the activity authorized will not increase the risk of spreading chlamydiosis interstate.

(b) The special permit will list the name and address of the person to whom the special permit is issued, and the special conditions under which the interstate movement, or cleaning and disinfection, may be carried out.

(1) For an interstate movement, the special permit will also include the following:

(i) The name and mailing address of the person who will receive the items;

(ii) The addresses of both the origin and destination of the items;

(iii) The number and type of items to be moved interstate; and

(iv) The reason for the interstate movement.

(2) For cleaning and disinfection, the special permit will also include the following:

(i) The address of the place where the items are located; and

(ii) The number and type of items involved.

(c) For an interstate movement, a copy of the special permit must accompany the items moved, and copies must be submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the items at the destination listed on the special permit.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.25 Denial and withdrawal of permits and special permits.

(a) *Denial.* If the Administrator determines that the applicant for a permit or special permit is not complying with or could not comply with this subpart or any special conditions needed to prevent the spread of chlamydiosis, or, in the case of a special permit, that the special permit is not required under this subpart, the Administrator may deny the request for a permit or special permit. If the request is denied, the Administrator will send the applicant a written notice explaining why the permit or special permit was denied.

(b) *Withdrawal.* The Administrator may withdraw a permit or special permit, orally or in writing, if he or she determines the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit. The Administrator may withdraw the permit or special permit without advance notice if he or she determines that the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit in a way that threatens the public health, interest, or safety. The Administrator will send the person to whom the permit or special permit has been issued a written explanation of why the permit or special permit is to be or was withdrawn.

(c) *Appeals.* Denial or withdrawal of a permit or special permit may be appealed to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal must be in writing³ and must state all of the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn. The Administrator will grant or deny the appeal, in writing, explaining all of the reasons for the decision, as promptly as circumstances allow. In cases where there is a conflict as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with re-

spect to the merits or validity of the denial or withdrawal in accordance with rules of practice adopted for the proceeding.

(Approved by the Office of Management and Budget under control number 0579-0116)

PART 85—PSEUDORABIES

Sec.

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AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 44 FR 10309, Feb. 16, 1979, unless otherwise noted.

§ 85.1 Definitions.

For purposes of this part, the following terms mean:

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative state-federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

³See footnote 10 to § 82.13.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

Approved differential pseudorabies test. Any test for the diagnosis of pseudorabies that: (a) Can distinguish vaccinated swine from infected swine; (b) Is produced under license from the Secretary of Agriculture under the Virus-Serum-Toxin Act of March 4, 1913, and subsequent amendments (21 U.S.C. 151 *et seq.*) with indications for use in the Cooperative State-Federal Pseudorabies Eradication Program; and (c) Is conducted in a laboratory approved by the Administrator.¹

Approved livestock market. A stockyard, livestock market, buying station, concentration point or any other premises under State or Federal veterinary supervision where swine are assembled for sale or sale purposes, and which has been approved by the Administrator under § 71.20 of this chapter.^{2,3}

¹The names and addresses of laboratories approved by the Administrator to conduct approved differential pseudorabies tests are published in the Notices Section of the FEDERAL REGISTER. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, Operational Support, 4700 River Road Unit 33, Riverdale, Maryland 20737–1231. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained at the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory, and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

²Notices containing lists of such approved livestock markets are published in the FEDERAL REGISTER. Information concerning livestock markets can be obtained from the Veterinarian in Charge, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture for the State in question.

Certificate. An official document issued by an Animal and Plant Health Inspection Service representative, State representative, or accredited veterinarian for and prior to the interstate movement of swine that are not known to be infected with or exposed to pseudorabies, and are not pseudorabies vaccinates, except for official gene-altered pseudorabies vaccinates vaccinated with a glycoprotein I (gPI) deleted gene-altered pseudorabies vaccine or from a qualified negative gene-altered vaccinated herd. The document must state: (a) The number and description of the swine to be moved; (b) That the swine to be moved are not known to be infected with or exposed to pseudorabies; (c) The purpose for which the swine are to be moved; (d) The points of origin and destination; (e) The consignor and consignee; and (f) Any additional information required by this part.

Common ground. The ground, areas, buildings or equipment communally shared by any specific group or groups of livestock.

Contact. Direct access to other swine, their excrement, or discharges; or sharing a building with a common ventilation system with other swine, or being within ten feet of other swine if not sharing a building with a common ventilation system.

Exposed livestock. Any livestock that has been in contact with an animal infected with pseudorabies, including all livestock in a known infected herd; except that livestock, other than swine, that have not been exposed to a clinical case of the disease for a period of 10 consecutive days shall no longer be considered to be exposed livestock.

Exposed swine. Any swine that has been in contact with an animal infected with pseudorabies, including all swine in a known infected herd.

³Before the Administrator withdraws approval of any livestock market, the owner of such livestock market shall be given notice by the Administrator of the proposed withdrawal of approval and the reasons therefor and such owner shall have an opportunity to present his views thereon. In those instances where there are conflicts as to the facts, a hearing shall be held to resolve such conflicts.

Farm of origin. A farm where the swine were born, or on which they have resided for at least 90 consecutive days immediately prior to the interstate shipment.

Feedlot. A premises where swine are fed physically separated from swine kept for breeding or other purposes and from which such swine are moved directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment, quarantined herd, or quarantined feedlot.

Herd. Any group of livestock maintained on common ground for any purpose, or two or more groups of livestock under common ownership or supervision, geographically separated, but which have an interchange or movement of animals without regard to whether the animals are infected with or exposed to pseudorabies.

Infected livestock. Any livestock determined to be infected with pseudorabies by an official pseudorabies test, or diagnosed by an official pseudorabies epidemiologist as having pseudorabies.

Interstate. From any State into or through any other State.

Isolation. Separation of swine by a physical barrier in such a manner that other swine do not have access to the isolated swine's body, excrement, or discharges; not allowing the isolated swine to share a building with a common ventilation system with other swine; and not allowing the isolated swine to be within ten feet of other swine if not sharing a building with a common ventilation system.

Known infected herd. Any herd in which any livestock has been determined to be infected with pseudorabies by an official pseudorabies test, an approved differential pseudorabies test, or diagnosed by an official pseudorabies epidemiologist as having pseudorabies.

(a) A herd of livestock, other than swine, shall no longer be classified as a known infected herd after 10 days since the last clinical case of pseudorabies in the herd.

(b) A herd of swine which has been released from pseudorabies quarantine in accordance with the following provisions

shall no longer be classified as a known infected herd if:

(1) All swine positive to an official pseudorabies test have been removed from the premises; all swine which remain in the herd, except swine nursing from their mothers, are subjected to an official pseudorabies serologic test and found negative 30 days or more after removal of swine positive to an official pseudorabies test; and no livestock on the premises have shown clinical signs of pseudorabies after removal of the positive swine; or

(2) All swine have been depopulated for 30 days and the herd premises have been cleaned and disinfected in accordance with § 85.13; or

(3) In a herd of swine in which swine are positive to an official pseudorabies serologic test but no swine are positive at titers greater than 1:8, all titered swine are subjected to another official pseudorabies serologic test and found negative; and all other swine in the herd which an epidemiologist, approved by the State animal health official and the Veterinarian in Charge, requires to be subjected to an official pseudorabies serologic test are tested and found negative.⁴

(4) In a herd of swine containing official gene-altered pseudorabies vaccines:

(i) All vaccinates have been vaccinated with the same official gene-altered pseudorabies vaccine; and

(ii) All swine positive to an approved differential pseudorabies test have been gone from the herd for at least 60 days; and

(iii) No livestock on the same premises as the herd have shown clinical signs of pseudorabies since removal of the positive swine; and

⁴The epidemiologist shall consider the following epidemiologic evidence to determine which swine in the herd, in addition to the titered swine, must be subjected to an official pseudorabies serologic test and found negative: (a) the percentage and number of titered swine in the herd; (b) the number of titered swine as compared to the number of swine tested; (c) the extent of the contact of members of the herd with the titered swine; (d) the prevalence of pseudorabies in the area; (e) the herd management practices; and (f) any other reliable epidemiologic evidence.

(iv) The herd has been tested for pseudorabies and found negative in accordance with one of the following two provisions:

(A) All swine in the herd, except suckling swine, are tested with an approved differential pseudorabies test. If all tested swine are found negative, no further testing is required. If any swine test positive, they may be retested with an approved differential pseudorabies test within 30 days of the first test if they are isolated from the remainder of the herd until the retest shows them to be negative.

(B) All swine in the herd over 6 months of age and a random sample of 30 or more swine in each segregated group of swine in the herd between 2 and 6 months of age are tested with an approved differential pseudorabies test. Not less than 30 days nor more than 60 days after this first test, another random sample of 30 or more swine in each segregated group of swine in the herd between 2 and 6 months of age is tested with an approved differential pseudorabies test. If all swine are negative on these tests, no further testing is required. If any swine test positive on either of these tests, the positive swine may be retested with an approved differential test within 30 days of the initial test if they are isolated from the remainder of the herd until the retest shows them to be negative.

Livestock. Swine, cattle, sheep or goats.

Moved. Shipped, transported, or otherwise moved, or delivered or received for movement by land, water, or air.

Official gene-altered pseudorabies vaccine. Swine vaccinated with an official gene-altered pseudorabies vaccine, in accordance with directions on the label.

Official gene-altered pseudorabies vaccine. Any official pseudorabies vaccine for which there is an approved differential pseudorabies test.

Official pseudorabies epidemiologist. A state or federally employed veterinarian designated by the State animal health official and the veterinarian in charge to investigate and diagnose pseudorabies in livestock.

Official pseudorabies serologic test. An official pseudorabies test, as defined in this section, conducted on swine serum

to detect the presence or absence of pseudorabies antibodies.

Official pseudorabies test. Any test for the diagnosis of pseudorabies approved by the Administrator conducted in a laboratory approved by the Administrator as listed in a Veterinary Services Notice listing such laboratories.⁵ The following tests for the diagnosis of pseudorabies have been approved by the Administrator: 1. Microtitration Serum-Virus Neutralization Test; 2. Virus Isolation and Identification Test; 3. Fluorescent Antibody Tissue Section Test; 4. Enzyme-Linked Immunosorbent Assay (ELISA) Test, except for approved differential pseudorabies tests other than the glycoprotein I (gPI) ELISA test; 5. Latex Agglutination Test (LAT); and 6. Particle Concentration Fluorescence Immunoassay (PCFIA) Test, including the gPI PCFIA test.⁶ State, Federal, and University laboratories will be approved by the Administrator following the determination by him that the laboratory: (a) Has personnel trained at the Veterinary Services Diagnostic Laboratory, Ames, Iowa, assigned to supervise the test, (b) follows standard test protocol, (c) meets check test proficiency requirements, and (d) will report all test results to State and Federal animal health officials.⁷

⁵Notices containing lists of laboratories approved for the purposes of the regulations in this part are published in the FEDERAL REGISTER Notices Section. The lists are also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, Operational Support, 4700 River Road Unit 33, Riverdale, Maryland 20737-1231.

⁶Copies of the test protocols (Recommended Minimum Standards for Diagnostic Tests Employed in the Diagnosis of Pseudorabies (Aujeszky's Disease)) published as a Veterinary Services Notice, May 17, 1978, are available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, Operational Support, 4700 River Road, Unit 33, Riverdale, Maryland 20737-1231.

⁷Before the Administrator withdraws the approval of any laboratory, the Director of such laboratory shall be given a notice by the Administrator of the proposed disapproval and the reasons therefore and such Director shall have an opportunity to present his views thereon. In those instances where there are conflicts as to the facts, a

Official pseudorabies vaccine. Any pseudorabies virus vaccine produced under license from the Secretary of Agriculture under the Virus, Serum and Toxin Act of March 4, 1913, and any legislation amendatory thereof (21 U.S.C. 151 *et seq.*).

Official vaccinate. Any swine which have been: (a) Vaccinated with an official pseudorabies vaccine by an accredited veterinarian or a State or Federal veterinarian in accordance with recommendations on the vaccine label and the laws and regulations of the State in which the swine are vaccinated; (b) identified by a numbered pink eartag approved by the State in which such swine are vaccinated;⁸ and (c) reported as official vaccinates at the time of vaccination to the State animal health official.

Owner-shipper statement. A statement signed by the owner or shipper of swine which states: (a) The number of swine to be moved; (b) the points of origin and destination; (c) the consignor and consignee; and (d) any additional information required by this part.

Permit. An official document issued for and prior to the interstate movement of pseudorabies infected, exposed or vaccinated swine under this part by an Animal and Plant Health Inspection Service representative, State representative, or an accredited veterinarian which states: (a) The number of swine to be moved; (b) the purpose for which the swine are to be moved; (c) the points of origin and destination; (d) the consignor and the consignee; and (e) any additional information required by this part.

Pseudorabies. The contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

Pseudorabies controlled vaccinated herd. (a) Pseudorabies controlled vaccinated herd status is attained by subjecting all swine over 6 months of age to an official pseudorabies serologic

test and finding all swine so tested negative. The herd must not have been a known infected herd within the past 30 days. Any swine in the herd over 6 months of age may be vaccinated for pseudorabies within 15 days after being subjected to an official pseudorabies serologic test and found negative.¹

(b) If on the qualifying official pseudorabies serologic test or any subsequent official pseudorabies test, any swine so tested are positive, pseudorabies controlled vaccinated herd status is attained or regained by: removing all positive swine; cleaning and disinfecting the herd premises in accordance with § 85.13; subjecting all swine in the herd, except swine nursing from their mothers, to an official pseudorabies serologic test 30 days or more after removal of the positive swine and finding all swine so tested negative; and, after an interval of 30 to 60 days after the first such negative official pseudorabies serologic herd test, subjecting all swine in the herd over 6 months of age to another official pseudorabies serologic test and finding all swine so tested negative.

(c)(1) Pseudorabies controlled vaccinated herd status is maintained by: subjecting 25 percent of all the offspring to an official pseudorabies serologic test when they are between 16 and 20 weeks of age and finding all swine so tested negative, or by leaving 10 percent of the swine over 6 months of age in the herd unvaccinated and subjecting all such unvaccinated swine to an official pseudorabies serologic test every 80-105 days and finding all swine so tested negative.

(2) Any swine in the herd over 6 months of age may be vaccinated for pseudorabies within 15 days after being subjected to an official pseudorabies serologic test and found negative; *Provided* That, if pseudorabies controlled vaccinated herd status is to be maintained by testing unvaccinated swine over 6 months of age, at least 10 percent of the swine in the herd over 6 months of age shall remain unvaccinated.

(3) All swine intended to be added to a pseudorabies controlled vaccinated herd shall be isolated until the swine have been found negative to an official pseudorabies serologic test conducted

hearing shall be held to resolve such conflicts.

⁸The numbered pink eartags are available commercially. Should any problem arise regarding the availability of such eartags, contact the appropriate State animal health official.

30 days or more after the swine have been placed in isolation. Not more than 90 percent of the swine over 6 months of age added to the herd may be vaccinated for pseudorabies. All additions to the herd which are to be vaccinated for pseudorabies shall be vaccinated within 15 days after being subjected to such official pseudorabies serologic test. All additions to the herd shall be added to the herd within 30 days after such official pseudorabies serologic test.

(4) Swine which have not been vaccinated for pseudorabies and which are to be tested to maintain pseudorabies controlled vaccinated herd status shall be maintained in the herd so that the pseudorabies vaccinates can physically touch nonvaccinates or so that the pseudorabies vaccinates are within 10 feet of nonvaccinates while sharing a direct common ventilation system with such nonvaccinates.

Pseudorabies vaccinate. Any swine that have been vaccinated with any product containing antigens for pseudorabies.

Qualified negative gene-altered vaccinated herd. (a) Any herd in which no swine are known to be infected with or exposed to pseudorabies, and in which no swine are vaccinated for pseudorabies, may achieve status as a qualified negative gene-altered vaccinated herd under the following conditions:

(1) All swine in the herd over 6 months of age must be tested with an official pseudorabies serologic test. For a minimum of 30 days before the test, the herd must not have been a known infected herd. During the 90 days before the test, at least 90 percent of the swine in the herd either must have been on the premises and a part of the herd, or must have entered the herd directly from a qualified pseudorabies negative herd. If any of the tested swine are found positive on this or any other official pseudorabies test prior to vaccination with the official gene-altered pseudorabies vaccine, the requirements in paragraph (a)(2) must be met.

(2) All swine that are positive on an official pseudorabies test must be removed from the herd, or must be isolated until another official

pseudorabies test conducted within 30 days of the first test shows them to be negative. If the results of the second test are negative, no additional testing is required before the herd may be vaccinated in accordance with paragraph (a)(3). If the results of the second test are positive, all swine that tested positive must be removed from the herd. Not less than 30 days after any positive swine are removed from the herd, all remaining swine in the herd, except suckling swine, must be tested with an official pseudorabies serologic test and found negative. Not less than 30 days after this negative test, the herd must be tested again in accordance with paragraph (a)(1).

(3) Not more than 30 days after test results show the herd to be negative for pseudorabies in accordance with paragraph (a)(1), all swine in the herd over 6 months of age must be vaccinated with an official gene-altered pseudorabies vaccine. Only one official gene-altered pseudorabies vaccine may be used in the herd.

(b) Any herd designated as a qualified pseudorabies negative herd may achieve new status as a qualified negative gene-altered vaccinated herd if all swine in the herd over 6 months of age are vaccinated with an official gene-altered pseudorabies vaccine. Only one official gene-altered pseudorabies vaccine may be used in the herd.

(c) Any herd in which no swine are known to be infected with or exposed to pseudorabies, and in which the only swine vaccinated for pseudorabies are official gene-altered pseudorabies vaccinates, may achieve status as a qualified negative gene-altered vaccinated herd under the following conditions:

(1) Only one official gene-altered pseudorabies vaccine may be used in the herd.

(2) All swine in the herd over 6 months of age must be tested with an approved differential pseudorabies test. For a minimum of 60 days before the test, the herd must not have been a known infected herd. During the 90 days before the test, at least 90 percent of the swine in the herd either must have been on the premises and a part of the herd or must have entered the herd directly from a qualified pseudorabies negative herd or a qualified negative

gene-altered vaccinated herd. If any of the tested swine are found positive on this test, the requirements in paragraph (c)(3) must be met.

(3) All swine positive on an approved differential pseudorabies test must be removed from the herd, or must be isolated until another approved differential pseudorabies test conducted within 30 days of the first test shows them to be negative. If the results of the second test are negative, no additional testing is required before the herd may be vaccinated in accordance with paragraph (c)(4). If the results of the second test are positive, all swine that tested positive must be removed from the herd. No less than 30 days after any negative swine are removed from the herd, all remaining swine in the herd, except suckling swine, must be tested with an approved differential pseudorabies test and found negative. No less than 30 days after this negative test, the herd must be tested again in accordance with paragraph (c)(2).

(4) No more than 30 days after test results show the herd to be negative for pseudorabies in accordance with paragraph (c)(2), all swine in the herd over 6 months of age that are not already official gene-altered pseudorabies vaccinates must be vaccinated with an official gene-altered pseudorabies vaccine. Only one official gene-altered pseudorabies vaccine may be used in the herd.

(d) Qualified negative gene-altered vaccinated herd status is maintained under the following conditions:

(1) All swine over 6 months of age in the herd must be official gene-altered pseudorabies vaccinates, and only one official gene-altered pseudorabies vaccine may be used in the herd.

(2) All swine over 6 months of age in the herd must be tested at least once a year with an approved differential pseudorabies test and found negative; except that, if any swine are positive, the herd may maintain its status if the positive swine are isolated from the rest of the herd until they are found negative to a second approved differential pseudorabies test conducted within 30 days of the first. The requirement for annual testing of all swine in the herd over 6 months of age may be met by testing 25 percent of the swine over

6 months of age every 80–105 days, or by testing 10 percent of the swine over 6 months of age each month. No swine may be tested twice in 1 year to comply with the 25 percent requirement, or twice in 10 months to comply with the 10 percent requirement.

(3) Swine may be added to a qualified negative gene-altered vaccinated herd only under one of the following conditions:

(i) The swine are moved to the qualified negative gene-altered vaccinated herd from another qualified negative gene-altered vaccinated herd, or from a qualified pseudorabies negative herd, without having any contact en route with swine other than those from a qualified negative gene-altered vaccinated herd or a qualified pseudorabies negative herd.

(ii) The swine are moved to the qualified negative gene-altered vaccinated herd from a qualified pseudorabies negative herd, have contact en route with swine other than those from a qualified negative gene-altered vaccinated herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to an official pseudorabies serologic test conducted 30 days or more after the swine are isolated.

(iii) The swine are moved to the qualified negative gene-altered vaccinated herd from another qualified negative gene-altered vaccinated herd, have contact en route with swine other than those from a qualified negative gene-altered vaccinated herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to an approved differential pseudorabies test conducted 30 days or more after the swine are isolated.

(iv) The swine are removed to the qualified negative gene-altered vaccinated herd from a herd other than a qualified negative gene-altered vaccinated herd or a qualified pseudorabies negative herd, and, before being added, are isolated until they are found negative to two official pseudorabies serologic tests, one conducted at the time the swine are isolated, and the second conducted 30 days or more after the swine are isolated.

Qualified pseudorabies negative herd.

(a) Qualified pseudorabies negative herd status is attained by subjecting all swine over 6 months of age to an official pseudorabies serologic test and finding all swine so tested negative. The herd must not have been a known infected herd within the past 30 days. A minimum of 90 percent of the swine in the herd must have been on the premises and a part of the herd for at least 90 days prior to the qualifying official pseudorabies serologic test or have entered directly from another qualified pseudorabies negative herd.

(b)(1) If on a qualifying official pseudorabies serologic test or any subsequent official pseudorabies test, any swine so tested are positive, qualified pseudorabies negative herd status is attained or regained by: Removing all positive swine and cleaning and disinfecting the herd premises in accordance with § 85.13; subjecting all swine in the herd, except swine nursing from their mothers, to an official pseudorabies serologic test 30 days or more after removal of the positive swine and finding all swine so tested negative; and, after an interval of 30 to 60 days after the first such negative official pseudorabies serologic herd test, subjecting all swine in the herd over 6 months of age to another official pseudorabies serologic test and finding all swine so tested negative; or

(2) If on any qualifying official pseudorabies serologic test or any subsequent official pseudorabies serologic test, any swine so tested are positive, but no swine are positive at titers greater than 1:8, qualified pseudorabies negative herd status is attained or regained by: Subjecting all titered swine and all other swine required to be tested by an epidemiologist, approved by the State animal health official and the Veterinarian in Charge, to an official pseudorabies serologic test and finding all such swine negative.¹

(c) Qualified pseudorabies negative herd status is maintained by subjecting all swine over 6 months of age in the herd to an official pseudorabies serologic test at least once each year (this must be accomplished by testing 25 percent of swine over 6 months of age every 80–105 days and finding all swine so tested negative, or by testing 10 per-

cent of the swine over 6 months of age each month and finding all swine so tested negative; no swine shall be tested twice in 1 year to comply with the 25 percent requirement or twice in 10 months to comply with the 10 percent requirement). All swine intended to be added to a qualified pseudorabies negative herd shall be isolated until the swine have been found negative to two official pseudorabies serologic tests, one conducted 30 days or more after the swine have been placed in isolation, the second test being conducted 30 days or more after the first test; except (1) swine intended to be added to a qualified pseudorabies negative herd directly from another qualified pseudorabies negative herd may be added without isolation or testing; (2) swine intended to be added to a qualified pseudorabies negative herd from another qualified pseudorabies negative herd, but with interim contact with swine other than those from a single qualified pseudorabies negative herd, shall be isolated until the swine have been found negative to an official pseudorabies serologic test, conducted 30 days or more after the swine have been placed in isolation; (3) swine returned to the herd after contact with swine other than those from a single qualified pseudorabies negative herd shall be isolated until the swine have been found negative to an official pseudorabies serologic test conducted 30 days or more after the swine have been placed in isolation.

Quarantined feedlot. A premises where pseudorabies infected or exposed swine are fed under the supervision and control of the State animal health official, and from which such swine are moved directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment in accordance with the provisions of this part.

Quarantined herd. A herd in which pseudorabies infected or exposed swine are bred, reared, and fed under the supervision and control of the State animal health official, and from which such swine are moved interstate directly to a recognized slaughtering establishment or directly through one or

more slaughter markets and then directly to a recognized slaughtering establishment, or from which exposed officially vaccinated swine which were negative to an official pseudorabies serologic test may be moved only to a quarantined herd or quarantined feedlot.

Recognized slaughtering establishment. A slaughtering establishment operated under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State inspected slaughtering establishment.

Slaughter market. A livestock market approved in accordance with § 71.20 of this chapter, at which swine for sale and shipment for slaughter are handled only on days when no swine are handled for sale and shipment for feeding or breeding purposes unless facilities are provided to keep slaughter swine physically separated from feeder and breeder swine, and feeder and breeder swine use no facilities previously used by slaughter swine on the day these classes of swine are at the market. The facilities used by slaughter swine shall be cleaned and disinfected in accordance with the requirements of this part before being used for feeding or breeding swine.^{9,10}

State. Any State or Territory of the United States, the District of Columbia, Puerto Rico, Guam or the Northern Mariana Islands.

State animal health official. The State animal health official who is responsible for the livestock and poultry disease control and eradication programs

in the official's State or his designated representative.

State representative. A person regularly employed in animal health work of a State and who is authorized by such State to perform the function involved under a Cooperative Agreement with the United States Department of Agriculture.

Swine not known to be infected with or exposed to pseudorabies. Any swine from a herd of swine in which no animal has been classified as a reactor to an official pseudorabies test, or has been diagnosed as having pseudorabies or suspected of having pseudorabies by a veterinarian; or any swine from a herd of swine which has been released from quarantine or has met the requirements of release from quarantine in accordance with the definition of known infected herd in § 85.1.

Veterinarian in charge. The veterinary official of Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is assigned by the Administrator to supervise and perform official animal health work of the Animal and Plant Health Inspection Service in the State concerned.

Veterinary Services. Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Veterinary Services representative. A person employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

(Approved by the Office of Management and Budget under control number 0579-0069)

[44 FR 10309, Feb. 16, 1979; 44 FR 12159, Mar. 6, 1979, as amended at 48 FR 57472, Dec. 30, 1983; 50 FR 42145, Oct. 18, 1985; 50 FR 47350, Nov. 15, 1985; 52 FR 45935, Dec. 3, 1987; 54 FR 21049, May 16, 1989; 55 FR 19251, May 9, 1990; 55 FR 49592, Nov. 29, 1990; 58 FR 68507, Dec. 28, 1993; 59 FR 67613, Dec. 30, 1994; 60 FR 26355, May 17, 1995; 62 FR 27937, May 22, 1997; 63 FR 17316, Apr. 9, 1998; 66 FR 21063, Apr. 27, 2001]

§ 85.2 Notice relating to the existence of the contagion of pseudorabies.

Notice is hereby given that there is reason to believe that the contagion of pseudorabies may exist in each State

⁹Notices containing lists of slaughter markets approved for the purposes of the regulations in this part are published in the FEDERAL REGISTER. Information concerning slaughter markets can be obtained from the Veterinarian in Charge, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, for the State in question.

¹⁰Before the Administrator withdraws approval of any slaughter market, the owner of such slaughter market shall be given notice by the Administrator of the proposed withdrawal of approval and the reasons therefore and such owner shall have an opportunity to present his views thereon. In those instances where there are conflicts as to the facts, a hearing shall be held to resolve such conflicts.

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and that to prevent the spread and dissemination of the contagion thereof, and to protect the livestock of the United States, the regulations in this part are promulgated.

§ 85.3 General restriction.

Livestock shall not be moved interstate except in compliance with the regulations in this part.

§ 85.4 Interstate movement of livestock.

(a) Livestock showing clinical evidence of pseudorabies shall not be moved interstate.

(b) Livestock that have been exposed to an animal showing clinical evidence of pseudorabies shall not be moved interstate within 10 days of such exposure.

(c) Except as provided in paragraphs (a) and (b) of this section, livestock other than swine may be moved interstate without restriction under this part.

(d) Except as provided in paragraphs (a) and (b) of this section, swine, swine semen, and swine embryos shall be moved interstate only in compliance with the regulations in this part.

[44 FR 10309, Feb. 16, 1979, as amended at 50 FR 47352, Nov. 15, 1985]

§ 85.5 Interstate movement of infected swine or exposed swine.

Infected swine or exposed swine, other than swine described in § 85.4 (a) or (b), shall only be moved interstate in accordance with the following provisions:

(a) *Movement of infected or exposed swine for slaughter.* Infected or exposed swine shall be moved interstate for slaughter only if:

(1) The swine are moved directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment;

(2) The swine are accompanied by a permit or owner-shipper statement and such permit or owner-shipper statement is delivered to the consignee;

(3) The permit, in addition to the information in § 85.1, or the owner-shipper statement, in addition to the infor-

mation in § 85.1, lists the identification of the swine as required by § 71.19 of this chapter; *except* if the swine are moved interstate and the identity of the farm of origin of each swine is maintained, the permit or the owner-shipper statement need not list the identification required by § 71.19 of this chapter, if such swine are identified to the farm of origin at the recognized slaughtering establishment or the first slaughter market; and

(4) The swine are moved to destination in one continuous movement without unloading enroute.

(b) *Movement of exposed swine to a quarantined herd or a quarantined feedlot.* Exposed swine shall be moved interstate directly to a quarantined herd or quarantined feedlot only if:

(1) The swine are negative to an official pseudorabies serologic test 21 days or more after last being exposed to any livestock showing clinical evidence of pseudorabies;

(2) The swine are officially vaccinated for pseudorabies within 15 days after the negative test;

(3) The swine are moved interstate within 30 days after the negative test;

(4) The swine are accompanied by a permit and such permit is delivered to the consignee; and

(5) The permit, in addition to the information described in § 85.1, states: (i) The present pseudorabies quarantine status of the farm of origin; (ii) the identification of the swine as required by § 71.19 of this chapter; (iii) the date of the official pseudorabies serologic test and the name of the laboratory where the test was conducted; (iv) the date of the official vaccination for pseudorabies; and (v) that approval for the interstate movement has been issued by the State animal health official of the State of destination prior to the interstate movement of the swine.

(Approved by the Office of Management and Budget under control number 0579–0051)

[44 FR 10309, Feb. 16, 1979, as amended at 48 FR 57472, Dec. 30, 1983; 50 FR 47352, Nov. 15, 1985; 53 FR 40387, Oct. 14, 1988; 59 FR 67133, Dec. 29, 1994]

§ 85.6 Interstate movement of pseudorabies vaccine swine, except swine from qualified negative gene-altered vaccinated herds, not known to be infected with or exposed to pseudorabies.

Pseudorabies vaccine swine, except swine from qualified negative gene-altered vaccinated herds, not known to be infected with or exposed to pseudorabies shall only be moved interstate in accordance with the following provisions:

(a) *Movement of pseudorabies vaccine swine, except swine from qualified negative gene-altered vaccinated herds, for slaughter.* Pseudorabies vaccine swine, except swine from qualified negative gene-altered vaccinated herds, not known to be infected with or exposed to pseudorabies shall be moved interstate for slaughter only if:

(1) The swine are moved directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment;

(2) The swine are accompanied by a permit or owner-shipper statement and such permit or owner-shipper statement is delivered to the consignee; and

(3) The swine are moved to destination in one continuous movement without unloading enroute.

(b) *Movement of pseudorabies vaccine swine, except swine from qualified negative gene-altered vaccinated herds, to a quarantined herd or quarantined feedlot.* Pseudorabies vaccine swine, except swine from qualified negative gene-altered vaccinated herds, not known to be infected with or exposed to pseudorabies shall be moved interstate directly to a quarantined herd or quarantined feedlot only if:

(1) The swine are accompanied by a permit and such permit is delivered to the consignee; and

(2) The permit in addition to information described in § 85.1 states: (i) The pseudorabies status of the herd; (ii) the identification of the swine required by § 71.19 of this chapter; (iii) the date of the vaccination for pseudorabies; and (iv) that approval for the interstate movement has been issued by the State animal health official of the State of

destination prior to the interstate movement of the swine.

(c) *General movements.* Swine vaccinated for pseudorabies with a glycoprotein I (gPI) deleted gene-altered pseudorabies vaccine and not known to be infected with or exposed to pseudorabies, but that are not from a qualified negative gene-altered vaccinated herd, may be moved interstate to destinations other than those set forth in paragraphs (a) and (b) of this section only if:

(1) The swine are accompanied by a certificate and such certificate is delivered to the consignee; and

(2) The certificate, in addition to the information described in § 85.1, states:

(i) The identification required by § 71.19 of this chapter;

(ii) That each animal to be moved was vaccinated for pseudorabies with a gPI-deleted gene-altered pseudorabies vaccine;

(iii) That each animal to be moved was subjected to a gPI enzyme-linked immunosorbent assay (ELISA) or a gPI Particle Concentration Fluorescence Immunoassay (PCFIA) approved differential pseudorabies test no more than 30 days prior to the interstate movement and was found negative;

(iv) The date of the gPI ELISA or the gPI PCFIA approved differential pseudorabies test; and

(v) The name of the laboratory that conducted the gPI ELISA or the gPI PCFIA approved differential pseudorabies test.

(Approved by the Office of Management and Budget under control number 0579-0051)

[44 FR 10309, Feb. 16, 1979, as amended at 48 FR 57472, Dec. 30, 1983; 50 FR 47352, Nov. 15, 1985; 53 FR 40387, Oct. 14, 1988; 55 FR 19253, May 9, 1990; 59 FR 67133, Dec. 29, 1994; 60 FR 26355, May 17, 1995; 63 FR 17316, Apr. 9, 1998]

§ 85.7 Interstate movement of swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies.

Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies shall only be moved interstate in accordance with the following provisions:

(a) *Movement for slaughter.* Swine not vaccinated for pseudorabies and not known to be infected with or exposed

to pseudorabies may be moved interstate for slaughter without further restriction under this part directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment.

(b) *Movement to a feedlot, quarantined feedlot, quarantined herd, or approved livestock market.* Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies may be moved interstate only if:

(1) The swine are moved from a qualified pseudorabies negative herd directly to a feedlot, quarantined feedlot, quarantined herd, or approved livestock market; or

(2) The swine are moved directly to a feedlot, quarantined feedlot, quarantined herd, or to an approved livestock market for subsequent movement to a feedlot or quarantined feedlot, quarantined herd in accordance with paragraph (c) of this section; or

(3) The swine are moved from a State which requires the State animal health official of that State to be immediately notified of any suspected or confirmed case of pseudorabies in that State and which requires that exposed or infected livestock be quarantined, such quarantine to be released only after having met quarantine release standards no less restrictive than those in the definition of known infected herd in § 85.1, and

(i) Unless the swine are moving interstate in a swine production system in compliance with § 71.19(g) of this chapter, the swine are accompanied by an owner-shipper statement and are moved from a farm of origin directly to an approved livestock market; and

(A) The owner-shipper statement is delivered to the consignee, and

(B) The swine are identified at the approved livestock market to the farm of origin by the identification required by § 71.19 of this chapter.

(ii) Unless the swine are moving interstate in a swine production system in compliance with § 71.19(g) of this chapter, the swine are accompanied by a certificate and such certificate is delivered to the consignee; the certificate, in addition to the information in

§ 85.1, states the identification of the farm of origin of each swine being moved by a means of identification required by § 71.19 of this chapter, and approval for the interstate movement has been issued by the State animal health official of the State of destination prior to the interstate movement of the swine, and

(A) The swine are moved directly to a feedlot, quarantined feedlot, quarantined herd or approved livestock market from a farm of origin; or

(B) The swine are moved directly to a feedlot, quarantined feedlot, quarantined herd or approved livestock market from an approved livestock market which received the swine directly from a farm of origin, or

(C) The swine are moved directly to a feedlot, quarantined feedlot, or quarantined herd from an approved livestock market, which received the swine from another approved livestock market, which received the swine directly from a farm of origin.

(c) *General movements.* Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies may be moved interstate only if:

(1) Unless the swine are moving interstate in a swine production system in compliance with § 71.19(g) of this chapter, the swine are accompanied by a certificate and such certificate is delivered to the consignee; and

(2) The certificate, in addition to the information described in § 85.1, states: (i) The identification required by § 71.19 of this chapter; and (ii) that each animal to be moved: (A) Was subjected to an official pseudorabies serologic test within 30 days prior to the interstate movement and was found negative, the test date and the name of the laboratory conducting the test; or (B) is part of a currently recognized qualified pseudorabies negative herd and the date of the last qualifying test; or, (C) is part of a pseudorabies controlled vaccinated herd and is one of the offspring that was subjected to the official pseudorabies serologic test to achieve or maintain the status of the

herd as a pseudorabies controlled vaccinated herd, and the date of the last test to maintain said status.

(Approved by the Office of Management and Budget under control number 0579-0069)

[44 FR 10309, Feb. 16, 1979, as amended at 48 FR 57472, Dec. 30, 1983; 50 FR 47352, Nov. 15, 1985; 53 FR 40387, Oct. 14, 1988; 66 FR 65604, Dec. 20, 2001; 69 FR 64651, Nov. 8, 2004]

§ 85.8 Interstate movement of swine from a qualified negative gene-altered vaccinated herd.

Swine from a qualified negative gene-altered vaccinated herd, and not known to be infected with or exposed to pseudorabies, may be moved interstate only in accordance with the following provisions:

(a) Without further restriction under this part if:

(1) The swine are moved directly to a recognized slaughtering establishment, or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment; or

(2) The swine are moved directly to a feedlot, quarantined feedlot, or approved livestock market; or

(3) The swine are moved from an approved livestock market to a feedlot, quarantined feedlot, or other approved livestock market; or

(4) The swine are moved interstate in a swine production system in compliance with § 71.19(g) of this chapter.

(b) For all interstate movements other than those set forth in paragraph (a) of this section, the swine must be accompanied by a certificate, and the certificate must be delivered to the consignee. In addition to the information required by § 85.1 of this part, the certificate must state: (1) That the swine are from a qualified negative gene-altered vaccinated herd; (2) The date of the herd's last qualifying test; (3) The identification for the swine to be moved interstate, in accordance with § 71.19 of this chapter; and (4) If the swine to be moved are official gene-altered pseudorabies vaccinates, the official gene-altered pseudorabies vaccine used in the herd.

[55 FR 19253, May 9, 1990, as amended at 66 FR 65604, Dec. 20, 2001; 69 FR 64651, Nov. 8, 2004]

§ 85.9 Other interstate movements.

The Administrator may, upon request in specific cases, permit the interstate movement of livestock not otherwise provided for in this part under such conditions as he may prescribe to prevent the spread of pseudorabies. The Animal and Plant Health Inspection Service intends that such authority be used only in situations and under circumstances presenting problems that could not have been reasonably anticipated in advance and in unique situations. The Animal and Plant Health Inspection Service does not intend that such authority be used repeatedly to cover the same problem, but that the regulation be amended to conform with needed changes as they come to light.

[44 FR 10309, Feb. 16, 1979, as amended at 54 FR 21049, May 16, 1989. Redesignated at 55 FR 19253, May 9, 1990]

§ 85.10 Interstate movement of swine semen and swine embryos for insemination of or implantation into swine.

Swine semen and swine embryos moved interstate for insemination of swine or implantation into swine shall be accompanied by a document issued by an accredited veterinarian stating that the donor swine are not known to be infected with or exposed to pseudorabies, were negative to an official pseudorabies serologic test within 30 days prior to the collection of the semen or embryos or were members of a qualified pseudorabies negative herd, and had not been exposed to pseudorabies within 30 days prior to the collection of the semen or embryos.

(Approved by the Office of Management and Budget under control number 0579-0032)

[44 FR 10309, Feb. 16, 1979, as amended at 50 FR 47353, Nov. 15, 1985. Redesignated at 55 FR 19253, May 9, 1990; 59 FR 67133, Dec. 29, 1994]

§ 85.11 Permits and certificates.

(a) Each permit, certificate or owner-shipper statement required under this part to accompany swine interstate shall be delivered with the swine to the consignee by the person delivering the swine.

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(b) A copy of each permit or certificate required under this part to accompany swine interstate shall be mailed or delivered to the State animal health official of the State of destination by the person issuing the document within 3 days of the interstate movement of the swine covered by said document.

(Approved by the Office of Management and Budget under control number 0579-0069)

[44 FR 10309, Feb. 16, 1979, as amended at 48 FR 57472, Dec. 30, 1983. Redesignated at 55 FR 19253, May 9, 1990]

§ 85.12 Cleaning and disinfecting means of conveyance.

All means of conveyance used in connection with the interstate movement of pseudorabies infected or exposed livestock shall be cleaned and disinfected in accordance with § 71.7 of this chapter using one of the disinfectants registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*) with herpes virucidal claims. These disinfectants shall be used in accordance with directions on their labels accepted in connection with their registration.

[44 FR 10309, Feb. 16, 1979, as amended at 62 FR 27937, May 22, 1997]

§ 85.13 Cleaning and disinfecting livestock markets and other facilities.

Livestock markets and other facilities used in connection with the interstate movement of pseudorabies infected or exposed livestock shall be cleaned and disinfected in compliance with § 71.7 of this chapter using one of the disinfectants registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*) with herpes virucidal claims. These disinfectants shall be used in accordance with directions on their labels accepted in connection with their registration.

[44 FR 10309, Feb. 16, 1979, as amended at 62 FR 27937, May 22, 1997]

PART 88—COMMERCIAL TRANSPORTATION OF EQUINES FOR SLAUGHTER

Sec.

88.1 Definitions.

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88.2 General information.

88.3 Standards for conveyances.

88.4 Requirements for transport.

88.5 Requirements at a slaughtering facility.

88.6 Violations and penalties.

AUTHORITY: 7 U.S.C. 1901, 7 CFR 2.22, 2.80, 371.4.

SOURCE: 66 FR 63615, Dec. 7, 2001, unless otherwise noted.

§ 88.1 Definitions.

The following definitions apply to this part:

APHIS. The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Commercial transportation. Movement for profit via conveyance on any highway or public road.

Conveyance. Trucks, tractors, trailers, or semitrailers, or any combination of these, propelled or drawn by mechanical power.

Equine. Any member of the *Equidae* family, which includes horses, asses, mules, ponies, and zebras.

Euthanasia. The humane destruction of an animal by the use of an anesthetic agent or other means that causes painless loss of consciousness and subsequent death.

Owner/shipper. Any individual, partnership, corporation, or cooperative association that engages in the commercial transportation of more than 20 equines per year to slaughtering facilities, except any individual or other entity who transports equines to slaughtering facilities incidental to his or her principal activity of production agriculture (production of food or fiber).

Owner-shipper certificate. VS Form 10-13,¹ which requires the information specified by § 88.4(a)(3) of this part.

Secretary. The Secretary of Agriculture.

Slaughtering facility. A commercial establishment that slaughters equines for any purpose.

Stallion. Any uncastrated male equine that is 1 year of age or older.

USDA. The U.S. Department of Agriculture.

¹Forms may be obtained from the National Animal Health Programs Staff, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231.

USDA backtag. A backtag issued by APHIS that conforms to the eight-character alpha-numeric National Backtagging System and that provides unique identification for each animal.

USDA representative. Any employee of the USDA who is authorized by the Deputy Administrator for Veterinary Services of APHIS, USDA, to enforce this part.

§ 88.2 General information.

(a) State governments may enact and enforce regulations that are consistent with or that are more stringent than the regulations in this part.

(b) To determine whether an individual or other entity found to transport equines to a slaughtering facility is subject to the regulations in this part, a USDA representative may request from any individual or other entity who transported the equines information regarding the business of that individual or other entity. When such information is requested, the individual or other entity who transported the equines must provide the information within 30 days and in a format as may be specified by the USDA representative.

§ 88.3 Standards for conveyances.

(a) The animal cargo space of conveyances used for the commercial transportation of equines to slaughtering facilities must:

(1) Be designed, constructed, and maintained in a manner that at all times protects the health and well-being of the equines being transported (e.g., provides adequate ventilation, contains no sharp protrusions, etc.);

(2) Include means of completely segregating each stallion and each aggressive equine on the conveyance so that no stallion or aggressive equine can come into contact with any of the other equines on the conveyance;

(3) Have sufficient interior height to allow each equine on the conveyance to stand with its head extended to the fullest normal postural height; and

(4) Be equipped with doors and ramps of sufficient size and location to provide for safe loading and unloading.

(b) Equines in commercial transportation to slaughtering facilities must not be transported in any conveyance

that has the animal cargo space divided into two or more stacked levels, except that conveyances lacking the capability to convert from two or more stacked levels to one level may be used until December 7, 2006. Conveyances with collapsible floors (also known as “floating decks”) must be configured to transport equines on one level only.

§ 88.4 Requirements for transport.

(a) Prior to the commercial transportation of equines to a slaughtering facility, the owner/shipper must:

(1) For a period of not less than 6 consecutive hours immediately prior to the equines being loaded on the conveyance, provide each equine appropriate food (*i.e.*, hay, grass, or other food that would allow an equine in transit to maintain well-being), potable water, and the opportunity to rest;

(2) Apply a USDA backtag² to each equine in the shipment;

(3) Complete and sign an owner-shipper certificate for each equine being transported. The owner-shipper certificate for each equine must accompany the equine throughout transit to the slaughtering facility and must include the following information, which must be typed or legibly completed in ink:

(i) The owner/shipper's name, address, and telephone number;

(ii) The receiver's (destination) name, address, and telephone number;

(iii) The name of the auction/market, if applicable;

(iv) A description of the conveyance, including the license plate number;

(v) A description of the equine's physical characteristics, including such information as sex, breed, coloring, distinguishing markings, permanent brands, tattoos, and electronic devices that could be used to identify the equine;

²USDA backtags are available at recognized slaughtering establishments and specifically approved stockyards and from State representatives and APHIS representatives. A list of recognized slaughtering establishments and specifically approved stockyards may be obtained as indicated in § 78.1 of this chapter. The terms “State representative” and “APHIS representative” are defined in § 78.1 of this chapter.

(vi) The number of the USDA backtag applied to the equine in accordance with paragraph (a)(2) of this section;

(vii) A statement of fitness to travel at the time of loading, which will indicate that the equine is able to bear weight on all four limbs, able to walk unassisted, not blind in both eyes, older than 6 months of age, and not likely to give birth during the trip;

(viii) A description of any preexisting injuries or other unusual condition of the equine, such as a wound or blindness in one eye, that may cause the equine to have special handling needs;

(ix) The date, time, and place the equine was loaded on the conveyance; and

(x) A statement that the equine was provided access to food, water, and rest prior to transport in accordance with paragraph (a)(1) of this section; and

(4) Load the equines on the conveyance so that:

(i) Each equine has enough floor space to ensure that no equine is crowded in a way likely to cause injury or discomfort; and

(ii) Each stallion and any aggressive equines are completely segregated so that no stallion or aggressive equine can come into contact with any other equine on the conveyance.

(b) During transit to the slaughtering facility, the owner/shipper must:

(1) Drive in a manner to avoid causing injury to the equines;

(2) Observe the equines as frequently as circumstances allow, but not less than once every 6 hours, to check the physical condition of the equines and ensure that all requirements of this part are being followed. The owner/shipper must obtain veterinary assistance as soon as possible from an equine veterinarian for any equines in obvious physical distress. Equines that become nonambulatory en route must be euthanized by an equine veterinarian. If an equine dies en route, the owner/shipper must contact the nearest APHIS office as soon as possible and allow an APHIS veterinarian to examine the equine. If an APHIS veterinarian is not available, the owner/shipper must contact an equine veterinarian;

(3) Offload from the conveyance any equine that has been on the conveyance for 28 consecutive hours and provide the equine appropriate food, potable water, and the opportunity to rest for at least 6 consecutive hours; and

(4) If offloading is required en route to the slaughtering facility, the owner/shipper must prepare another owner-shipper certificate as required by paragraph (a)(2) of this section and record the date, time, and location where the offloading occurred. In this situation, both owner-shipper certificates would need to accompany the equine to the slaughtering facility.

(c) Handling of all equines in commercial transportation to a slaughtering facility shall be done as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, stress, physical harm, or trauma. Electric prods may not be used on equines in commercial transportation to a slaughtering facility for any purpose, including loading or offloading on the conveyance, except when human safety is threatened.

(d) At any point during the commercial transportation of equines to a slaughtering facility, a USDA representative may examine the equines, inspect the conveyance, or review the owner-shipper certificates required by paragraph (a)(3) of this section.

(e) At any time during the commercial transportation of equines to a slaughtering facility, a USDA representative may direct the owner/shipper to take appropriate actions to alleviate the suffering of any equine. If deemed necessary by the USDA representative, such actions could include securing the services of an equine veterinarian to treat an equine, including performing euthanasia if necessary.

(f) The individual or other entity who signs the owner-shipper certificate must maintain a copy of the owner-shipper certificate for 1 year following the date of signature.

§ 88.5 Requirements at a slaughtering facility.

(a) Upon arrival at a slaughtering facility, the owner/shipper must:

(1) Ensure that each equine has access to appropriate food and potable water after being offloaded;

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(2) Present the owner-shipper certificates to a USDA representative;

(3) Allow a USDA representative access to the equines for the purpose of examination; and

(4) Allow a USDA representative access to the animal cargo area of the conveyance for the purpose of inspection.

(b) If the owner/shipper arrives during normal business hours, the owner/shipper must not leave the premises of a slaughtering facility until the equines have been examined by a USDA representative. However, if the owner/shipper arrives outside of normal business hours, the owner/shipper may leave the premises but must return to the premises of the slaughtering facility to meet the USDA representative upon his or her arrival.

(c) Any owner/shipper transporting equines to slaughtering facilities outside of the United States must present the owner-shipper certificates to USDA representatives at the border.

§ 88.6 Violations and penalties.

(a) The Secretary is authorized to assess civil penalties of up to \$5,000 per violation of any of the regulations in this part.

(b) Each equine transported in violation of the regulations of this part will be considered a separate violation.

(Approved by the Office of Management and Budget under control number 0579-0160.)

PART 89—STATEMENT OF POLICY UNDER THE TWENTY- EIGHT HOUR LAW

Sec.

89.1 Amount of feed.

89.2 Two or more feedings at same station.

89.3 Feeding, watering, and resting livestock in the car.

89.4 Watering.

89.5 Feeding pens.

AUTHORITY: 49 U.S.C. 80502; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 28 FR 5967, June 13, 1963, unless otherwise noted.

§ 89.1 Amount of feed.

(a) Under normal conditions, the amount of feed designated in the following schedule will be considered as sustaining rations for livestock in transit when fed at the intervals required by the Twenty-Eight Hour Law:

Species and quantity of livestock	At first feeding station	At second and subsequent feeding stations
Cattle and beef type or range calves (for each car ¹)	200 lbs. of hay ^{1,2}	300 lbs. of hay. ^{1,2}
Dairy calves (for each car deck ¹)	100 lbs. of hay ^{1,2}	150 lbs. of hay. ^{1,2}
Horses and mules (for each car ¹)	400 lbs. of hay ^{1,2}	400 lbs. of hay. ^{1,2}
Sheep and goats (for each car deck ¹)	200 lbs. of hay ^{1,2}	300 lbs. of hay. ^{1,2}
Lambs and kids (for each car deck ¹)	100 lbs. of hay ^{1,2}	150 lbs. of hay. ^{1,2}
Swine (for each carload lot, in single or double deck car, the amount of shelled corn ² indicated):		
Lots of not more than 18,000 lbs	2 bushels	2 bushels.
More than 18,000 lbs. but not more than 21,000 lbs	2½ bushels	2½ bushels.
More than 21,000 lbs. but not more than 24,000 lbs	3 bushels	3 bushels.
More than 24,000 lbs. but not more than 27,000 lbs	3½ bushels	3½ bushels.
More than 27,000 lbs. but not more than 30,000 lbs	4 bushels	4 bushels.
More than 30,000 lbs.—proportionately larger amounts.		

¹The requirements set forth the sustaining rations for a full load of livestock in a railroad car 40 feet in length. The requirements for a full load of livestock in railroad cars of different sizes should be modified proportionately, i.e., a load of livestock transported in a car 50 feet in length would require an additional 25 percent of feed or 2.5 percent for each additional foot of car over 40 feet.

²Or the equivalent in other suitable feed. Dairy calves too young to eat hay or grain, or shipped without their dams, should be given a sufficient amount of prepared calf feed, milk, raw eggs, or other suitable feed. All feed should be of good quality.

(b) When the owner of a consignment of livestock desires that they be fed larger amounts of feed than those designated in paragraph (a) of this section for the particular kind and quantity of livestock, or the carrier believes that they should be fed larger amounts, the

amounts to be fed should be agreed upon, if practicable, by the owner and the carrier at the time the animals are offered for shipment.

(c) When emergency conditions arise, such as severe changes in the weather,

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which increase the rigors of transportation, the livestock should receive amounts of feed, additional to those designated in paragraph (a) of this section, sufficient to sustain them until they arrive at the next feeding station or destination.

(d) When the movement of livestock is delayed en route so that the period of their confinement in the cars materially exceeds that specified by the Twenty-Eight Hour Law, the livestock should receive additional feed in proportion to such excess time.

§ 89.2 Two or more feedings at same station.

When livestock are held at a feeding station 12 hours after the last previous feed has been substantially consumed, they should again be fed the ration prescribed by § 89.1(a) for that station: *Provided, however,* That they may be held without such feeding for a period longer than 12 hours if the time they are so held, added to the time required to reach the next feeding station or destination, whichever is closer, would not ordinarily exceed 40 hours.

§ 89.3 Feeding, watering, and resting livestock in the car.

(a) Livestock should be unloaded into pens of the character described in § 89.5(a) for feeding, watering, and resting, unless there is ample room in the car for all of the animals to lie down at the same time.

(b) If livestock are watered in the car, adequate facilities should be provided and ample water furnished to insure all the animals an opportunity to drink their fill. In the case of hogs,

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water should be available for not less than 1 hour.

(c) Livestock unloaded for feed and water and returned to the car for rest should be allowed to remain in the pens not less than 2 hours.

(d) Livestock unloaded for water and returned to the car for feed and rest should be allowed to remain in the pens not less than 1 hour.

(e) When livestock are fed in the car, the feed should be evenly distributed throughout the car.

§ 89.4 Watering.

Livestock should be furnished an ample supply of potable water. Water treated with chemicals for industrial or boiler use, or taken from streams or ponds containing sewage, mud, or other objectionable matter should not be used. Troughs and other receptacles should be clean. In cold weather, the water should be free from ice.

§ 89.5 Feeding pens.

(a) Stock pens and other enclosures for feeding, watering, and resting livestock in transit should have (1) sufficient space for all of the livestock to lie down at the same time, (2) properly designed facilities for feeding and watering the livestock, (3) reasonably well-drained, clean, and safe floors of concrete, cinders, gravel, hard-packed earth, or other suitable material, and (4) suitable protection from weather reasonably to be expected in the region in which the pens are located.

(b) Care should be taken to protect livestock unloaded en route at a point having marked difference in temperature from that at the point from which they were shipped.